

UPDATE INFORMATION SHEET

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

Vols. I & II – Portland City Code

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

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

Update Packet Enclosed	September 30, 2012
Previous Update Packet	June 30, 2012

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
3rd Quarter 2012 (September 2012)

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**CAMPAIGN
FINANCE FUND**

(Chapter repealed by Ordinance No. 185552,
effective September 21, 2012.)

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Chapter 2.12

REGULATION OF LOBBYING ENTITIES

(Chapter added by Ordinance No. 179843,
effective April 1, 2006.)

Sections:

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
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2.12.010 Purpose.

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

2.12.020 Definitions.

(Amended by Ordinance Nos. 180205, 180620, 180917, 181204, 182389, 182671, 184046, 184882 and 185304, effective June 1, 2012.) As used in this Chapter unless the context requires otherwise:

- A. “Calendar quarter” means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. “Calendar year” means the period of January 1 through December 31.

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- C.** “City director” means the director or individual in charge of the following or its successors: the Bureau of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Neighborhood Involvement, the Bureau of Planning and Sustainability, the Office for Community Technology, the Portland Bureau of Emergency Management, the Bureau of Emergency Communications, Portland Fire & Rescue, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Portland Water Bureau, the Bureau of Development Services, the Bureau of Housing and Community Development, the Bureau of Revenue, and the Portland Development Commission.
- D.** “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Planning and Sustainability Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.
- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:
1. Time spent by an individual representing his or her own opinion to a City official.
 2. Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
 3. Time spent by a City official or City employee acting in their official capacity as an official for the City.
 4. Time spent submitting a bid, responding to related information requests, and negotiating terms on a competitively bid contract or intergovernmental agreement.

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5. Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.
 6. Formal appearances to give testimony before public hearings or meetings of City Council.
 7. Work performed by a contractor or grantee pursuant to a contract with or grant from the City.
 8. Time spent by any person holding elected public office, or their specifically authorized representative, acting in their official capacity.
- H.** “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I.** “Lobbyist” means any individual who is authorized to lobby on behalf of a lobbying entity.
- J.** “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.
- K.** “Gift” means something of economic value given to a City official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not City officials on the same terms and conditions; and something of economic value given to a City official for valuable consideration less than that required from others who are not City officials. However, “gift” does not mean:
1. Campaign contributions, as described in ORS Chapter 260.
 2. Gifts from family members.

2.12.030 Registration for Lobbying Entities.

(Amended by Ordinance Nos. 180205 and 181204, effective September 7, 2007.)

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- A.** Within three working days after a lobbying entity has spent 8 hours or more or estimates that it has spent cumulative 8 hours or more during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
- 1.** The name, address, email, website and telephone number of the lobbying entity;
 - 2.** A general description of the trade, business, profession or area of endeavor of the lobbying entity;
 - 3.** The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf of the lobbying entity. The list must include:
 - a.** Individuals who are paid to lobby for the interests of the lobbying entity.
 - b.** Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
 - 4.** The subjects and any specific official actions of interest to the lobbying entity.
- B.** A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar year.
- C.** Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 8-hour threshold has been reached in each calendar year.
- D.** An authorized representative of the lobbying entity must sign the registration required by this Section.

2.12.040 Quarterly Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180205, 180620 and 181204, effective September 7, 2007.)

- A.** A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 8 hours or more during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
- 1.** The specific subject or subjects of the official action of interest to the

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lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects, the name of the registered lobbyist representing the entity and the date of the contact

2. A good faith estimate of total moneys, if the total exceeds \$1000.00, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:
 - a. Food, refreshments, travel and entertainment;
 - b. Printing, postage and telephone;
 - c. Advertising, direct mail and email;
 - d. Miscellaneous and gifts;
 - e. Compensation paid to lobbyists; and
 - f. Reimbursements to lobbyists for their expenses.
 3. The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25.00 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B.** Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C.** A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D.** A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100(3).

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- E.** An authorized representative of the Lobbying Entity must sign the declaration required by Section 2.12.090 A for each quarterly report.
- F.** Lobbying entities who do not anticipate spending over \$1,000 per calendar quarter for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.
- G.** A lobbying entity may amend a quarterly report without penalty if it files the amended report within 25 days after the end of the calendar quarter.

2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.

(Amended by Ordinance Nos. 180620 and 181204, effective September 7, 2007.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Lobbying entities that spent fewer than 8 hours lobbying during every calendar quarter in a calendar year.
- C.** Any lobbying entity that satisfies all three of the following requirements:
 - 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
 - 2.** Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
 - 3.** Is formally recognized by the Office of Neighborhood Involvement or through City Council resolution or ordinance.

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2.12.060 Declaration Required by Lobbyists

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

2.12.070 Reporting Requirements for City Officials

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

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
 - 1.** Name of lobbying entity, and if applicable, name of lobbyist;
 - 2.** Subject of lobbying;
 - 3.** Value of gift, meal or entertainment; and
 - 4.** Date of receipt.
- B.** City officials shall file written reports after a lobbyist or lobbying entity has agreed to make a donation of personal or real property to the City. Such reports shall include:
 - 1.** Name of lobbying entity, and if applicable, name of lobbyist;
 - 2.** Gift or donation requested;
 - 3.** Purpose of donation; and
 - 4.** Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25.00 or if no gifts or donations have been requested in the calendar quarter.
- D.** Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.

- E. A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

2.12.080 Prohibited Conduct.

- A. No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B. The prohibitions in this Section shall not apply to:
1. Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
 2. The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely representing that agency in his or her official capacity as an officer or employee of the public body;
 3. Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
 4. Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

2.12.090 Verification of Reports, Registrations and Statements.

(Amended by Ordinance No. 181204, effective September 7, 2007.)

- A. Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

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- B.** No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not reasonably believe to be true and correct to every matter.

2.12.100 Public Nature of Reports, Registrations and Statements.

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

2.12.110 Auditor's Duties.

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

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

2.12.120 Penalties.

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

2.12.130 Severability.

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

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Chapter 3.13

**BUREAU OF ENVIRONMENTAL
SERVICES**

(Chapter added by Ordinance No. 155385,
effective December 8, 1983.)

Sections:

- 3.13.010 Purpose.
- 3.13.020 Organization.
- 3.13.030 Mission.
- 3.13.040 Administrative Rules and Procedures.

3.13.010 Purpose.

(Amended by Ordinance Nos. 163823 and 168321, effective Dec. 30, 1994.) The purpose of this Chapter is to describe the organization, and mission of the Bureau of Environmental Services. This Bureau of Environmental Service, created by Ordinance in 1983, is committed to the proper management, protection, and where practicable enhancement of our natural resources.

3.13.020 Organization.

(Amended by Ordinance Nos. 168321, 174830 and 185397, effective July 6, 2012.) The Bureau is administered by the Commissioner in charge and led by the Director of Environmental Services. The Director works with Group Managers and their staff in pursuit of the mission. The organizational structure of the Bureau shall be determined by the Director after consultation with the Commissioner in charge. The Bureau of Environmental Services is responsible for design, construction, operation and maintenance of the sanitary and storm water collection and transport systems, and watershed management. The Director shall have authority to issue administrative rules and regulations in addition to those specified in the Charter and this Code, as are appropriate to provide for the adequate functioning of the Bureau and to carry out the responsibilities under this Code.

3.13.030 Mission.

(Amended by Ordinance Nos. 168321 and 174830, effective September 22, 2000.) The Bureau of Environmental Services serves the community by protecting public health, water quality and the environment. To achieve this, the Bureau:

- A.** Protects, enhances and restores natural waterways; and

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- B.** Provides sewage and stormwater services to accommodate current and future needs.

3.13.040 Administrative Rules and Procedures.

(Added by Ordinance No. 185397, effective July 6, 2012.)

- A.** The Director of the Bureau of Environmental Services may adopt, amend and repeal rules, policies, procedures, and forms pertaining to matters within the scope of this Code.
- B.** Any adoption, amendment or repeal of a rule pursuant to this Section requires a public review process which includes a minimum 30-day public comment period and the opportunity for a public hearing. Notice shall be given by publication in a newspaper of general circulation not less than 30 days before adoption. Such notice shall include the location at which copies of the full text of the proposed rules may be obtained and the place and time of a proposed public hearing. The Director is only required to hold the public hearing if requested to do so.
- C.** During the public review process, the Director shall hear testimony or receive written comment concerning the proposed rules and prepare a report of findings and recommendations. The Director shall review findings and recommendations, taking into consideration the comments received during the public review process, and shall either adopt, modify or reject proposals. If a substantial modification is made, the Director may provide additional time for the public review process. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the office of the Director and in the Portland Policy Documents repository described in Chapter 1.07.
- D.** Notwithstanding Subsections 3.13.040 B. and C., the Director may adopt an interim rule without prior notice if failure to act promptly would result in a threat to public health and safety or the environment. Any interim rule adopted pursuant to this Paragraph shall be effective for a period of not longer than 180 days.

Chapter 3.15

**OFFICE OF
MANAGEMENT AND FINANCE**

(Chapter replaced by Ordinance No. 181483;
amended by Ordinance No. 184539,
effective May 20, 2011.)

Sections:

- 3.15.010 Organization.
- 3.15.020 Bureau of Internal Business Services.
- 3.15.030 Business Operations Division.
- 3.15.040 Bureau of Financial Services.
- 3.15.050 Bureau of Human Resources.
- 3.15.060 Revenue Bureau.
- 3.15.070 Bureau of Technology Services.
- 3.15.080 Enterprise Business Solution Division.

3.15.010 Organization.

- A.** The Office of Management and Finance shall be under the direction and control of the Chief Administrative Officer (CAO) and shall include such other employees as Council may provide. The Office of Management and Finance is responsible for providing and coordinating administrative services of the City in support of the operational needs of City bureaus, and other duties as assigned. Administrative services include all those functions that provide products, services and support to City employees and programs that in turn provide direct services to the public. These services include, but are not limited to, the following: accounting, debt management, treasury management, budgeting, financial planning, payroll, grant administration, license and fee collection, risk management, facilities and property management, fleet management, human resources and personnel services including employee training and education, technology services, printing and distribution, and procurement services.
- B.** The Office of Management and Finance consists of the Bureau of Internal Business Services, which includes the divisions of CityFleet, Facilities, Procurement Services, Printing and Distribution, and Risk Management; the Business Operations Division, and the bureaus of Financial Services, Human Resources, Revenue, Technology Services and the Enterprise Business Solution Division.

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- C.** The CAO shall be responsible for the overall coordination of the administrative services functions of the City. The CAO shall be authorized to:
- 1.** Formulate, approve and issue administrative rules and systems for providing City administrative services.
 - 2.** Implement and monitor administrative rules and systems for providing City administrative services.
 - 3.** Determine if any administrative service should be provided by City staff or outside vendors. Bureaus shall use the services of the Office of Management and Finance unless otherwise authorized by the CAO or directed by the City Council.
 - 4.** Determine the classifications, duties and reporting relationships for positions responsible for centralized administrative services including, but not limited to, human resources, procurement and technology services.
 - 5.** Recommend alternatives to Council for providing administrative services.
 - 6.** At Council direction, provide administrative services to any other governmental or private agency.
- D.** The CAO's duties include, but are not limited to:
- 1.** Evaluate the delivery of City administrative services; initiate improvements; and periodically report to Council on services and initiatives.
 - 2.** Serve and perform the duties of the City's budget officer as defined in Oregon Revised Statutes, or name a designee to perform these duties.
 - 3.** Provide the City Council with an annual workplan to improve city administrative services. The CAO will periodically meet with City Council to report on efforts to continually evaluate and improve all city administrative services, including those contained in the annual workplan.
 - 4.** Advise the Council and provide staff support to citywide projects and oversight committees including, but not limited to, technology oversight committees.

3.15.020 Bureau of Internal Business Services.

- A.** The Bureau of Internal Business Services shall be supervised by a Director who shall report to the CAO. The Bureau of Internal Business Services consists of CityFleet, Facilities Services, Printing and Distribution Services, Procurement Services, and Risk Management. The Bureau of Internal Business Services provides facilities, fleet, printing and distribution, procurement and risk management services for the City; and any other duties assigned by the CAO. The Bureau of Internal Business Services shall be responsible for the CityFleet Operating Fund (PCC 5.04.180), the Facilities Services Operating Fund (PCC 5.04.185), the Printing and Distribution Services Operating Fund (PCC 5.04.200), the Insurance and Claims Operating Fund (PCC 5.04.230), the Worker's Compensation Self Insurance Operating Fund (PCC 5.04.240) and other assigned funds.
- B.** The Bureau of Internal Business Services Director shall be authorized to:
1. Determine the City's equipment or leasing needs and determine appropriate methods of funding and financing such needs. Any proposed lease transactions shall first be reviewed and approved by the City's Debt Manager.
 2. Execute real property agreements including, but not limited to, easements, permits, licenses and leases, and amendments or renewals of such real property agreements. The Commissioner-in-Charge of the Office of Management and Finance is authorized to request the City Attorney to proceed in court as necessary to enforce the provisions of any agreement authorized by this section.
 3. Coordinate advance payments for building rentals. In cases where building space has been or shall be rented by the City on lease or on a month-to-month basis and the owner requires advance payment of rentals or a security deposit, the Auditor hereby is authorized to audit and allow such advance payment of rentals or security deposit, provided that advance payments of rentals shall be for a period of not to exceed 31 days.
 4. Develop and enforce Rules of Conduct for City Buildings, and require all persons to obey the Rules of Conduct. City Buildings includes all real properties placed under the facilities management of the Office of Management and Finance. Any person who fails to comply with the Rules of Conduct for City Buildings, or the reasonable direction of the Person-in-Charge, may be excluded as provided in this Section.

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- a.** Person-in-Charge is defined in ORS 164.205(5) and includes, but is not limited to, any of the following while acting in the scope of employment, agency or duty:

 - (1)** Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau;
 - (2)** Any person providing security services in any City Building pursuant to any contract with the City, or with any person, firm or corporation managing City leased properties on the City's behalf; or,
 - (3)** Any person specifically designated in writing as the Person-in-Charge by the Commissioner-in-Charge of the Office of Management and Finance or by the Bureau of Internal Business Services Director.
- b.** City Building Exclusions. Any Person-in-Charge may exclude any person who violates any Rule of Conduct while in or upon any City building or property, from a specific City building or property or from all City buildings and properties, for a period of 24 hours. The Mayor, and specifically identified designees of the Mayor, may issue an exclusion for any period of time up to and including permanent exclusion from City buildings.

 - (1)** The notice of exclusion shall be in writing, given to the person excluded and signed by the Person-in-Charge. It shall specify the dates and places of exclusion. It shall contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
 - (2)** A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with the provisions of Title 22 of the Code to have the notice of exclusion rescinded. Notwithstanding the provisions of Title 22, the appeal to the Code Hearings Officer shall be filed within 5 days of issuance of the notice of exclusion, unless extended by the Code Hearings Officer for good cause shown. The sworn statement of the Person in Charge who issued the notice of exclusion shall be used as evidence on appeal, unless the appellant requests, in writing, the presence of the Person-in-Charge at the appeal hearing.

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- C.** CityFleet shall be supervised by a Fleet Manager who shall report to the Bureau of Internal Business Services Director. CityFleet is responsible for managing all City vehicles and equipment, owned leased or rented by the City. The Fleet Manager shall provide fleet management services as required by the CAO including, but not limited to:
1. Maintain an inventory of all city-owned, leased, or rented motorized vehicles and equipment, licensed trailers, and wheel-mounted equipment. This does not include fire fighting apparatus.
 2. Operate the City's maintenance and repair facilities now existing or in the future established for maintenance or repair of the above described fleet equipment.
 3. Assist with identifying City vehicle and equipment needs.
 4. Manage the assignment of fleet vehicles and equipment.
 5. Assist in the development of fuel and resource conservation plans.
 6. In cooperation with the Procurement Services Division, purchase, lease or rent vehicles and equipment as defined above. Any proposed lease transactions shall first be reviewed and approved by the City's Debt Manager.
- D.** Facilities Services shall be supervised by a Facilities Manager who shall report to the Bureau of Internal Business Services Director. The Facilities Manager shall provide facilities management services as required by the CAO including, but not limited to:
1. Provide property management services for the inventory and rental of city-owned real property. Provide property management services for the purchase, sale and replacement of city-owned real property.
 2. Provide facilities maintenance services, including but not limited to, maintenance and repair of City buildings and their related equipment; and the administration of janitorial, maintenance and security contracts.
 3. Provide architectural services including but not limited to architectural design, facilities and space planning, and project management of City capital projects.

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- E.** Printing and Distribution Services shall be supervised by a Manager who shall report to the Bureau of Internal Business Services Director. Printing and Distribution Services is responsible for managing all reproduction, mail, distribution and copy services used by the City, and shall be responsible for the equipment needed to provide these services. The Printing and Distribution Manager shall provide printing and distribution management services as required by the CAO including, but not limited to:
- 1.** Provide rapid, convenient reproduction, distribution and mail services, and provide advice and consultation on these services.
 - 2.** In cooperation with the Procurement Services Division, review and approve requests for the lease or purchase of office copiers/printers.
 - 3.** Manage the processing of U.S. mail and pick up and delivery of interoffice mail, packages and equipment.
- F.** Risk Management shall be supervised by a Risk Manager who shall report to the Bureau of Internal Business Services Director. Risk Management is responsible for administering, coordinating and controlling all activities related to commercial and self-insurance including, but not limited to: property and casualty insurance, workers' compensation insurance, liability insurance and the City's right to subrogation on these insurance programs. Risk Management shall obtain a public liability insurance policy or provide the necessary funding through a self-insurance program protecting the City, its officers, agents and employees with limits of not less than the maximum statutory limits of liability imposed on municipalities of the State of Oregon. Risk Management shall monitor and coordinate a citywide loss prevention and control program to minimize potential property, liability, fidelity and personnel losses. Risk Management shall maintain records relating to commercial and self-insurance losses or claims filed against the City. It shall execute any claim or proof of loss for damage to City property.
- 1.** The Risk Manager is hereby delegated authority to evaluate and approve applications for self-insurance programs in lieu of commercial insurance requirements in any City agreement including, but not limited to, contracts and permits. Upon approval of a self-insurance program, the insurance coverage obligation in the City agreement shall be automatically amended without further action by the Council, subject to the approved form being filed with the City Auditor or such other bureau as may be charged with keeping the records.
 - 2.** The Risk Manager is authorized to act on behalf of the City on all matters related to workers' compensation including, but not limited to: accept, deny or defer claims; authorize payments of workers' compensation

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benefits in the amounts required by law relating to workers' compensation claims filed with the City; and, subject to the provisions of the City Charter governing settlements, enter into settlements of workers' compensation claims whether it be on a disputed claims disposition agreement or disputed claim settlement basis. Workers' compensation insurance shall be administered in accordance with the laws for the State of Oregon and shall be on a self insurance basis. The City Attorney may represent the City on workers' compensation matters, including litigation or settlement of claims. The City Attorney shall approval all settlements as to form.

3. Subject to the provisions of City Charter governing settlements, the Risk Manager is authorized to act on behalf of the City of Portland in the settlement of tort claims and court actions alleging employment discrimination and violations of civil rights, subject to concurrence of the Bureau of Human Resources Director.
 4. The Risk Manager is authorized to investigate complaints of discrimination filed with the Civil Rights Division of the Oregon Bureau of Labor and Industries, or the Equal Employment Opportunity Commission. During the investigation of complaints filed, the Risk Manager or designee shall be an agent of the Office of the City Attorney for purposes of representing the City. The Risk Manager is authorized to settle such complaints subject to the following provisions.
 - a. Subject to PCC Section 3.15.040, the Risk Manager may make settlements in an amount not exceeding \$5,000 and shall file a report with the Council two weeks after the end of each month with respect to the settlements entered into pursuant to this subsection.
 - b. Where a settlement agreement provides for payment of a claim in an amount in excess of \$5,000, the settlement must be approved by City Council.
 5. The Risk Manager is authorized to investigate and enter into settlements on fair and moral claims which are not covered by insurance.
- G.** Procurement Services Division shall be supervised by the Chief Procurement Officer (CPO) who shall report to the Bureau of Internal Business Services Director. The Procurement Services Division shall be responsible for procurement and contractor services as directed by the CAO. The CPO shall be responsible for the duties of the Chief Procurement Officer under the Charter,

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Code or general law including, but not limited to those described in PCC Section 5.33.040 and PCC Chapter 5.68.

3.15.030 Business Operations Division.

Business Operations Division shall be supervised by a Manager who shall report to the CAO. Business Operations is responsible for policy development, communications, specific project management services, and budget and financial services for all bureaus and divisions in the Office of Management and Finance.

3.15.040 Bureau of Financial Services.

- A.** The Bureau of Financial Services shall be supervised by a Director, who shall be the Chief Financial Officer (CFO) of the City, and who shall report to the CAO. The Bureau of Financial Services shall consist of the following divisions: Accounting; Financial Planning; and Public Finance and Treasury. The Bureau of Financial Services is responsible for treasury and debt management, deferred compensation, financial planning (including budget development and monitoring), accounting and payroll, grants management and assigned grant funds, pension oversight and other services or responsibilities the Council or the CAO may assign.
- B.** The Accounting Division shall be supervised by a Controller who reports to the CFO and shall have specific authority to:
 - 1.** Establish, maintain and enforce citywide accounting policies, practices, rules and regulations. The Controller shall be the final authority for interpretations of accounting and financial reporting policies and practices.
 - 2.** Authorize reports that disclose the fiscal condition of the City to external users including the Comprehensive Annual Financial Report (CAFR), the Single Audit Report, and other reports required by federal, state and local regulations.
 - 3.** Conduct or contract with public accounting firms to conduct financial and compliance audits and other tests to determine compliance with citywide accounting and financial reporting policies and current professional standards and adequacy of internal controls over accounting transactions, the cost of which shall be paid by the bureau being audited.
- C.** The Financial Planning Division shall be supervised by a Manager who shall report to the CFO. The Financial Planning Division is responsible for:
 - 1.** Coordinating development and administration of the City's budget, including capital budgeting;

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2. Financial planning and operational review of the City's utilities;
 3. Long range financial forecasting for the City's funds, including oversight of the General Fund;
 4. Monitoring expenditures and revenues,;
 5. Developing and analyzing financial policy and performance measurement systems;
 6. Administering grants and performing other duties as assigned.
- D.** Public Finance and Treasury Division shall be supervised by the City Treasurer, who shall report to the CFO. The Treasurer shall have those authorities and responsibilities as described in PCC Chapter 3.08. Debt Management within the Public Finance and Treasury Division, shall be supervised by the Debt Manager who shall report to the City Treasurer. Debt Management is responsible for managing the City's debt program to ensure access to capital markets including long- and short-term capital financing programs, providing expert advice to City bureaus and officers regarding placement of debt and capital financing issues, and performing other duties as assigned. The Debt Manager is responsible for assuring that sales or leasing agreements entered into by the City comply with applicable Federal tax exemption regulations for funding and financing.

3.15.050 Bureau of Human Resources.

- A.** The Bureau of Human Resources shall be supervised by a Director who shall report to the CAO. The responsibilities of the Bureau of Human Resources shall include coordination and control of the administrative and technical activities relating to maintenance of a comprehensive human resources system for the City, including employee relations, labor negotiations, training, employment services, classification, compensation, affirmative action and diversity development, workforce development and employee benefits. The Bureau of Human Resources shall be responsible for the health benefit plan administration including the Health Insurance Fund and the Portland Police Association Health Insurance Fund.
- B.** The Human Resources Director shall formulate, administer and monitor administrative rules approved by the Council, or the CAO, including provisions for:
1. Recruitment, examination, certification and appointment on the basis of applicants' knowledge, skills and abilities.

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2. Classification and compensation.
 3. Employee behavior and expectations.
 4. Disciplinary guidelines with notice to employees of prohibited practices.
 5. Employee training and development.
- C.** In accordance with Oregon law, the Human Resources Director or designee, on behalf of the Council, may enter into agreements with labor organizations, recognizing their exclusive representation of specified classifications within City service.
- D.** Dispute Resolution.
1. The Human Resources Director or designee(s) is the official interpreter for the City pertaining to its collective bargaining agreements and any other written compensation and benefits plans and personnel policies established by the Council.
 2. The Commissioner-in-Charge of a bureau shall retain the right to hear individual grievances and or complaints on a case by case basis. In settling such grievances and or complaints, the Commissioner-in-Charge shall do so with the advice and consent of the City Attorney and the Human Resources Director.
 3. If the Commissioner-in-Charge of a bureau does not retain jurisdiction of a grievance and or a complaint within one week of receiving the issues, then the Human Resources Director shall automatically have jurisdiction to settle the issue.
 4. Provision for resolution of disputes is as follows:
 - a. Within one (1) day following the filing of a written grievance under a collective bargaining agreement or complaint under other written personnel policy adopted by Council, the bureau or department recipient of the grievance or complaint shall provide a copy to the Human Resources Director of the written grievance or other complaint document. During the investigation of grievances and complaints, the Human Resources Director or designee(s) shall be an agent of the Office of the City Attorney for purposes of representing the City.

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- b.** Where the claim is for wages or other monetary benefit not exceeding \$5,000 per claimant, the supervisor, division manager or bureau director, with the approval of the Commissioner-in-Charge of the bureau and of the Human Resources Director, may accept or adjust the claim in settlement on behalf of the City, where settlement is deemed prudent and appropriate, provided that:

 - (1)** The Human Resources Director authorizes the settlement in writing and gives written notice to the payroll division or to the benefits program manager involved to draw and issue a check not exceeding \$5,000 per claim for the settlement expense, charged to the appropriate center code, account number or fund;
 - (2)** Payments which are an exception to Section 5.08.020 of the Code, which requires payroll checks to be drawn only for services rendered, shall be made only when the Human Resources Director determines such payment to be in the best interests of the City and the Office of the City Attorney approves. This Section shall be narrowly applied.
 - (3)** The Office of the City Attorney reviews and approves the settlement agreement as being not in conflict with State or Federal laws, applicable ordinances and collective bargaining agreements pertaining to conditions of employment.
- c.** Where a settlement agreement provides for payment of claims for back wages or other monetary benefit in an amount exceeding \$5,000, the settlement shall not be authorized or enforceable unless approved by the City Council by ordinance.
- d.** The Human Resources Director or designee is authorized to investigate complaints and reports of employment discrimination, in accordance with the Risk Management Section 3.15.020 where applicable. During the investigation of complaints and reports, the Human Resources Director or designee shall be an agent of the Office of the City Attorney for purposes of representing the City.
- e.** The Human Resources Director will file a report to Council 2 weeks after the end of each month with respect to the settlements entered into pursuant to this section.

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- E.** The Human Resources Director shall establish objectives for the Bureau of Human Resources and develop a plan for accomplishing these objectives and carrying out the mission of the Bureau of Human Resources.
- F.** The Human Resources Director shall design, manage and administer a comprehensive and competitive Classification Plan and Compensation Plan. The Council, or the Human Resources Director by express delegation by ordinance from the Council, shall fix the salaries, compensation and benefits of all officers, agents and employees of the City. No other bureau director or subordinate employee has the authority to change the salaries, compensation or benefits of any City officer, agent or employee.
- G.** The Human Resources Director and the Benefits Manager shall design, manage and administer a comprehensive, competitive and compliant benefits package, as approved by the Council, including provisions for:
 - 1.** Medical, dental and vision coverage;
 - 2.** Dependent Care Assistance Plan;
 - 3.** Medical Expense Reimbursement Plan;
 - 4.** Life Insurance;
 - 5.** Long-Term Disability; and
 - 6.** Employee Assistance Program.

Such provisions shall include employee participation eligibility and enrollment, claims management, procedures for record keeping and responsibility for all applicable reporting and disclosure requirements.

3.15.060 Revenue Bureau.

(Amended by Ordinance No. 185568, effective September 28, 2012.)

- A.** The Revenue Bureau shall be supervised by a Director who shall report to the CAO. The Revenue Bureau consists of the divisions of Business Solutions, License and Tax, Operations, Regulatory and the Office for Community Technology. The Revenue Bureau is responsible for collecting a wide variety of City revenues and fees, and maintaining and improving the systems that collect them. The responsibilities of the Bureau shall include, but are not limited to:

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1. Manage all billing and collection software used by the Revenue Bureau including, but not limited to, maintenance, defect troubleshooting, problem resolution, development, enhancements and upgrades.
 2. Support end users in diagnosing and resolving system problems.
 3. Conduct business and system process improvements.
 4. Manage, enforce and collect business license taxes.
 5. Manage, enforce and collect transient lodging taxes.
 6. Manage and enforce all regulatory programs formerly the responsibility of the Bureau of Licenses, including the authority to enact administrative rules and regulations.
 7. Manage and collect assessments and liens formerly the responsibility of the Auditor's Office.
 8. Perform business management functions including mail processing, receipting and distribution; and perform overall financial accounting of bureau revenues.
 9. Audit functions including the Portland area business license tax returns, transient lodging taxes and internal systems and processes, as well as other special audits as deemed necessary.
 10. In consultation with the requesting bureau, recommend systems for new revenue or fee collection services.
 11. Manage funds as assigned.
 12. Manage, administer and enforce such responsibilities as are assigned to the Office for Community Technology by City Code or the Council, and
 13. Perform such other duties as may be required by ordinance or by the City Council, or which are necessary to implement the purposes of this Chapter.
- B.** To the extent any other provision of the Portland City Code conflicts with this Section 3.15.060, this section shall control.

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3.15.070 Bureau of Technology Services.

- A.** The Bureau of Technology Services shall be supervised by the Chief Technology Officer (CTO) of the City, and who shall report to the CAO. The Bureau shall be responsible for the Technology Services Fund (PCC 5.04.500). The CTO shall have specific authority to:
- 1.** Enter into nondisclosure agreements between the City and prospective vendors in order for City employees to review proprietary information on products and technologies that are, or might be, considered for use by the City. A nondisclosure agreement is one that prohibits the release of proprietary or confidential information, whether held by the City or the vendor, and does not include any monetary consideration.
 - 2.** In consultation with the bureau that is the custodian of record, enter into data grant agreements between the City and grantees in order for Bureau employees to share City Geographical Information Systems data. A data grant agreement is one in which the City will grant the use of pertinent GIS data to agencies, organizations or individuals (grantees) for research projects or projects performed under contract with the City. Data grant agreements may include direct cost reimbursements to the City.
- B.** Except as specifically exempted by the CTO, the Bureau shall manage, establish policies and standards, and provide technical support for all City-owned technology systems. Technology systems include, but are limited to, information and electronic communications systems. It shall:
- 1.** Provide citywide technology strategic planning and consulting services, including project scoping, budget preparation and analysis, system planning and procurement, resource allocation and project management for technology projects.
 - 2.** Design, implement and manage all technology hardware and software including system security measures.
 - 3.** Manage all citywide radio, video, data communications, microwave, wireless communications and telephone systems and equipment owned by the City.
 - 4.** Design, implement and manage all citywide voice, video and data applications.
 - 5.** Manage all end user technology support services, including Help Desk and Desktop Support services.

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6. Manage citywide Geographic Information Systems.
7. Provide all Internet and Intranet services to City bureaus, offices, boards and commissions.
8. In cooperation with the Procurement Services Division of the Bureau of Internal Business Services, review and approve the purchase of all technology software, hardware and professional consulting services. Any proposed technology lease transaction shall first be reviewed and approved by the City's Debt Manager.
9. Provide technical expertise and information to technical oversight committees for City technology projects.
10. Provide all telephone services to City bureaus; coordinate with telephone vendors; order new facilities and equipment for city-owned or leased systems; plan telephone systems; and resolve all telephone problems.
11. Manage the City's official website.
12. Manage and authorize all City domain name registrations and renewals.

3.15.080 Enterprise Business Solution Division.

The Enterprise Business Solution Division (EBS) shall be supervised by a Manager who shall report to the CAO. With support of technical staff of the Bureau of Technology Services, the EBS Division is responsible for managing the technology systems used to standardize and manage the City's business affairs and providing citywide services in, but not limited to, the areas of fiscal services, procurement and human resource services. The Division's yearly workplan and long range strategic plan will be monitored by representatives from City bureaus and Offices organized into an Executive Steering Committee and a Program Advisory Committee. These committees shall provide recommendations to the CAO. The CAO is authorized to adopt administrative rules establishing EBS Operating Principles.

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Chapter 3.18

BUREAU OF PERSONNEL

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

Chapter 3.20

BUREAU OF POLICE

Sections:

- 3.20.010 General Organization.
- 3.20.020 Council to Organize and Make Rules and Regulations.
- 3.20.030 Authority of Chief of Police.
- 3.20.040 Duties of the Chief of Police
- 3.20.050 Subordinate Officers.
- 3.20.070 Fees to be Paid Over to Treasurer.
- 3.20.080 Policemen Receiving Gifts and Employing Attorneys - Penalty for Violation.
- 3.20.110 Duties of Police Force.
- 3.20.120 Council in Emergency to Appoint Temporary Policemen.
- 3.20.130 Record of Daily Arrests.
- 3.20.140 Police Review Board.
- 3.20.150 Fingerprints, Photographs and Records of Identification.
- 3.20.160 Police Chief to Make Rules and Regulations.
- 3.20.170 Uniforms.
- 3.20.180 Appointment and Removal of Police Reserves
- 3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.
- 3.20.200 Membership Card and Star of Police Reserves.
- 3.20.210 Police Reserves Exempt from Civil Service.
- 3.20.230 Medical Examinations.
- 3.20.240 Membership.
- 3.20.360 Fees for Report on Police Records.
- 3.20.370 Accountability and Disposition of Fees.

3.20.010 General Organization.

(Amended by Ordinance Nos. 136814, 138453 and 159113, effective Oct. 23, 1986.)
The Bureau of Police shall consist of the Chief of Police and such other employees as the Council may provide. The Bureau shall be responsible for the enforcement of law and order. The Chief of Police shall be the Commanding Officer of the police force and shall direct the police work of the City. The Chief of Police shall be directly responsible to the Commissioner In Charge for the proper functioning of the Bureau. For administrative purposes the Bureau shall be made up of the following branches, each of which shall be commanded by a Deputy Chief and have personnel and such duties as may be assigned

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by the Chief of Police, subject to the approval of the Commissioner In Charge.

- A. Operations Branch;
- B. Investigations Branch;
- C. Operations Support Branch;
- D. Administrative Support Branch.

The Deputy Chiefs serve under the command of the Chief.

3.20.020 Council to Organize and Make Rules and Regulations.

The Bureau of Police of the City shall be organized by the Council and the members appointed as provided by the Charter, subject to the civil service rules of the Charter. To that end the Council may make all necessary or convenient rules and regulations for the organization and conduct of the police force, for the care and management of the City prison, for receiving and hearing complaints against any member of the force, for the removal or suspension of any member of the force, and for the forfeiture of all or any portion of the wages that may be due any member of such force on account of misconduct or negligence in the discharge of his duties; all the powers of the City connected with and incident to the appointment, discipline, and government of its police shall be vested in the Council, except as otherwise provided by Charter.

3.20.030 Authority of Chief of Police.

The Chief of Police, after having taken the oath of office, shall thereafter, under the direction of the Commissioner of Finance and Administration, have command and control of the police force of the City.

3.20.040 Duties of the Chief of Police.

(Amended by Ordinance No. 138453; effective July 27, 1974.) The Chief of Police is a peace officer and must execute all processes directed to him by any magistrate of this State in criminal matters. He may make arrests for breach of peace or commission of crime within the limits of the City with or without a warrant as peace officers do under the laws of this State. He must exercise a vigilant control over the peace and quiet of the City. He shall exercise such additional powers as may be conferred upon him by the ordinances of the City to enable him to carry out the objects and purposes of this Charter.

3.20.050 Subordinate Officers.

(Amended by Ordinance Nos. 136814, 138453 and 159113, effective Oct. 23, 1986.) The Deputy Chiefs, Captains and other ranks or grades of police within the Bureau of Police shall possess like power and authority as the Chief of Police with respect to peace officer powers, except as herein provided. The Chief of Police shall have control over the Deputy Chiefs, Captains and all other employees of the Bureau of Police when they

are on duty, and shall see that the City ordinances and rules, orders and regulations for the government of the police force are observed and enforced. He/she shall have power to recommend for suspension to the Commissioner In Charge any subordinate officer, member or employee for a violation of the same as prescribed by the Civil Service rules.

3.20.070 Fees to Be Paid over to Treasurer.

The Chief of Police or any other officer of the police force, when acting under or enforcing any law or statute other than a City ordinance, may collect and receive the same fees and compensation as are allowed to a constable for like services, and if collected he shall pay the same over to the City Treasurer, as provided in the case of fees which may be received by the municipal judge; but no fees shall be taxed against Multnomah County for services rendered by either Chief of Police or municipal judge.

3.20.080 Policemen Receiving Gifts and Employing Attorneys -Penalty for Violation.

No member of the police force shall for his own benefit, under any pretense whatever, receive or share in any present, fee, gift or emolument for public service other than the regular salary and pay, except by the consent of the Council and Chief of Police, publicly given. Nor shall any member share in or receive any gift, fee, or reward from any person who may become bail for any arrested, accused, or convicted person who may become surety for any such, on appeal from or review of the judgment or decision of any court or magistrate, or any fee, gift, or reward in any case from an attorney at law who may prosecute or defend any person arrested or prosecuted for any offense in Multnomah County. Nor shall any member, directly or indirectly, interest himself or interfere in any manner whatever in the employment of any attorney to aid in the defense of any person arrested or accused. For any violation of either of the foregoing provisions the person so offending shall be immediately removed from the police force.

Upon complaint of any person alleging a violation of this Section the Council shall summon the officer accused before it and shall hold a summary hearing with power to subpoena witnesses and to compel the production of all necessary evidence. If it finds that a violation of this Section has been committed by such officer he shall immediately be dismissed from the force and shall be ineligible for reappointment.

3.20.110 Duties of Police Force.

The police force of the City shall at all times of the day and night within the boundaries of the City preserve the public peace, prevent crime, arrest offenders, protect rights of persons and property, guard the public health, preserve order, remove nuisances existing in streets, roads, public places, and highways, report all leaks and other defects in water pipes and sewers, and street lights not burning to the proper authorities, provide a proper force at every fire in order that thereby the firemen and property may be protected, protect strangers and travelers at the steamboat and ship landings and railroad stations, and generally obey and enforce all ordinances of the City Council and criminal laws of the State and of the United States.

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3.20.120 Council in Emergency to Appoint Temporary Policemen.

The Council in case of any mob, riot, pestilence, or on days of public demonstration may appoint such temporary policemen as it may deem necessary, who shall have all the powers and perform all the duties of regular policemen. Such appointments shall not continue beyond the emergency.

3.20.130 Record of Daily Arrests.

The Bureau of Police shall keep a daily arrest docket and a municipal court transcript in substantially the following form:

(See Figure 1 at end of Title 3)

The arrest docket may be printed in any size as may be determined by the Chief of Police and shall be a part of the original record of the Bureau of Police and shall be preserved and kept in the custody of the Bureau of Police.

3.20.140 Police Review Board.

(Replaced by Ordinance No. 183657; amended by Ordinance No. 183995, effective August 13, 2010.)

- A.** Purpose. The Police Review Board (“Board”) is an advisory body to the Chief of Police (“Chief”). The Review Board will make recommendations as to findings and proposed officer discipline to the Chief of Police.
- B.** Powers of the Board:
 - 1.** Review incidents and investigations. The Board shall review incidents and investigated complaints of alleged misconduct by non-probationary sworn officers (“officers”) who are employed by the Portland Police Bureau (“Bureau”) in the following cases:
 - a.** The supervising Assistant Chief, the Director of the Independent Police Review Division of the Auditor (“IPR”) or the Captain of the Internal Affairs Division of the Bureau (“IAD”) controverts the findings or proposed discipline of the Reporting Unit (“RU”) manager pursuant to Code Section 3.21.120.
 - b.** Investigations resulting in a recommended sustained finding and the proposed discipline is suspension without pay or greater.
 - c.** The following incidents involving use of force:
 - (1)** All officer involved shootings.

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- (2) Physical injury caused by an officer that requires hospitalization.
 - (3) All in custody deaths.
 - (4) Less lethal incidents where the recommended finding is “out of policy”.
 - d. All investigations regarding alleged violations of Human Resources Administrative Rules regarding complaints of discrimination resulting in a recommended sustained finding.
 - e. Discretionary cases referred by the Chief, Branch Chief, or the IPR Director.
 - 2. Probationary sworn officers. The Board shall review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.
 - 3. Recommendations to Chief. The Board shall make recommendations to the Chief regarding findings and discipline. The Board may make recommendations regarding the adequacy and completeness of an investigation. The Board may also make policy or training recommendations to the Chief.
 - 4. On September 1, 2010, the Board shall replace the Use of Force and Performance Review Boards set forth in the Bureau’s 2009 Manual of Policy and Procedure. Before September 1, 2010, the Use of Force and Performance Review Board shall review incidents and investigated cases pursuant to the existing Bureau directives.

C. Composition of Board

- 1. The Board shall be composed of five voting members and eight advisory members. All Board members will be advised of every case presented to the Board. A quorum of four Voting Members, including the Citizen member and the RU Manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
 - a. Voting members

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- (1)** One citizen member from a pool of citizen volunteers recommended by the Auditor and confirmed by the City Council.
 - (a)** Citizens shall be appointed for a term of no more than three years. Citizens may serve two full terms plus the remainder of any unexpired vacancy they may be appointed to fill.
 - (i)** The Bureau and IPR shall develop a Bureau Directive setting the criteria for Citizen selection to be approved by City Council.
 - (b)** The Auditor and the Chief shall have the authority to recommend to City Council the removal of citizen members from the pool.
 - (i)** The Bureau and IPR shall develop a Bureau Directive setting the criteria for removal to be approved by City Council.
- (2)** One peer member of the same rank/classification as the involved officer; peer member will be selected from a pool of Bureau representatives pre-approved by the Chief.
- (3)** The Assistant Branch Chief who is the supervisor of the involved officer.
- (4)** The Director of IPR (or designee).
- (5)** A Commander or Captain who is the supervisor of the involved officer (RU Manager).

b. Advisory members

- (1)** The Office of Accountability and Professional Standards manager.
- (2)** Representative from Bureau of Human Resources.
- (3)** Representative from City Attorney's Office.
- (4)** The Internal Affairs Division Manager.

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- (5) Review Board Coordinator.
 - (6) Representative of Commissioner in Charge of the Bureau (“Commissioner in Charge”).
 - (7) Representative of the Training Division.
 - (8) The Assistant Chief(s) that are not the supervisor of the involved member.
 - c. Representatives/Individuals that may also be present during the presentation of the case include:
 - (1) Bargaining Units
 - (2) Involved Member
 - 2. However, when the incident to be reviewed by the board involves the following use of force incidents, one additional citizen member and one additional peer member shall serve on the Board, for a total of seven voting members. A quorum of six voting members, including two citizen members, and the RU manager or designee, and four Advisory members is required to be present to make recommendations to the Chief.
 - a. All officer involved shootings.
 - b. Physical injury caused by an officer that requires hospitalization.
 - c. All in custody deaths.
 - d. Less lethal incidents where the recommended finding is “out of policy”.
- D. Access to information
 - 1. All members of the Board shall have access to necessary and relevant documents and an equal opportunity to participate in Board deliberations.
 - a. The Bureau and IPR shall develop a Bureau Directive establishing confidentiality provisions and distribution timeline provisions of Board materials.

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2. The RU manager or designee will provide a written recommendation of the findings, reasoning for the recommendation and disposition recommendation.

E. Board Facilitator

1. The Board shall be facilitated by a person who is not employed by the Bureau and who is not a member of the Board.
 - a. The Bureau and IPR shall develop a Bureau Directive establishing selection criteria and confidentiality provisions for the Facilitator(s).
 - b. The voting members of the Board shall schedule a meeting to recommend a pool of facilitators based the Bureau Directive for approval of the Commissioner in Charge in accordance with City contract rules.
2. The Board facilitator shall write the statement of recommended findings and discipline and a summary of any training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief within two weeks of the Board meeting date.

F. Board Recommendations

1. The Board shall prepare a statement of its recommended findings and proposed discipline, if any, in every case for submission to the Chief. Such statement shall include:
 - a. The Board's recommended findings and a brief explanation of the Board's rationale for its recommendation, and a record of the Board's vote.
 - b. In the event that the Board is not unanimous, the statement shall contain a portion detailing the minority's recommendation.
2. The Board facilitator shall write the Board's statement of recommended findings and proposed discipline and a summary of any policy training and/or investigation issues or concerns on behalf of the Board and submit the statement to the Chief.
 - a. IPR and the Bureau will develop a Bureau Directive setting forth the timeliness provisions of the statement.

G. Appeal of Board Recommendation.

1. As provided in Code Chapter 3.21, once the Board has prepared a statement of proposed findings relating to complaints of alleged misconduct of an officer during an encounter involving a citizen, the complainant or involved officer may have the opportunity to appeal the recommended findings to the IPR Citizen Review Committee.
2. Until the appeal period allowed by Code Chapter 3.21 has expired, and if an appeal is filed, until there is a final decision by the IPR Citizen Review Committee or Council, the Chief may not issue proposed discipline or make recommendations to the Commissioner in Charge.
3. The Director of IPR, the Chief of Police, or Commissioner in Charge may request an expedited hearing by the IPR Citizen Review Committee of an appeal when deemed necessary due to the nature of the underlying complaint.

H. Action by Chief of Police and Commissioner in Charge. After receiving the Board's statement described above and after the appeal period allowed by Code Chapter 3.21 has expired, or if an appeal is filed, after the Chief receives the IPR Citizen Review Committee or the Council's recommendation in accordance with Code Chapter 3.21:

1. In the following cases, the Chief shall make a recommendation regarding the appropriate findings and level of discipline to the Commissioner in Charge:
 - a. Investigations resulting in a sustained finding and the proposed discipline is suspension without pay or greater.
 - b. The following incidents involving use of force:
 - (1) All officer involved shootings.
 - (2) Physical injury caused by an officer that requires hospitalization.
 - (3) All in custody deaths.
 - (4) Less lethal incidents where the recommended finding "out of policy".

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2. In the cases described in Subsection 1 above, the Commissioner in Charge shall make the final decision on findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
 3. In all other cases, unless the Commissioner in Charge exercises authority over the case, the Chief shall make the final decision on proposed findings and discipline, consistent with obligations under state and federal law, Portland City Charter and collective bargaining agreements.
- I. Public reports. As often as deemed necessary by the Board, but at least twice each calendar year, the Board shall publish public reports summarizing its statements of findings and a summary of any training and/or investigation issues or concerns. The reports shall keep confidential and not include involved officers' names, the names of witnesses, or the name of any complainants. The reports shall be written by the Board facilitator. The reports may not be released before a final decision, including discipline if any, is made by the Chief or Commissioner in Charge.

3.20.150 Fingerprints, Photographs and Records of Identification.

The Chief of Police shall maintain at police headquarters suitable means and appliances for taking and preserving fingerprints, photographs, and descriptions of persons. He shall take or cause to be taken, recorded, and preserved one or more fingerprints and photographs, and a description of each person arrested and booked for the commission of a felony. Of each person arrested and booked for the commission of a misdemeanor or violation of a penal ordinance or Charter provision, he may, but is not required to, take and preserve one or more fingerprints, photographs, and a description. Such prints, photographs, and description shall be made a matter of permanent record when evidence showing previous conviction or convictions of any crime, misdemeanor, or violation of a penal ordinance or Charter provision shall have been obtained.

3.20.160 Police Chief to Make Rules and Regulations.

The Chief of Police shall have authority, subject to the approval of the Commissioner In Charge, to issue such administrative rules and regulations in addition to those embodied in the Charter and this Code, as are necessary to govern the conduct of the members of the Bureau of Police, and to provide for the adequate functioning of the Bureau.

3.20.170 Uniforms.

The following rules shall apply to uniforms for employees appointed to the Bureau of Police who are members of the Fire and Police Disability and Retirement System:

- A. The Chief of Police shall, subject to the approval of the Commissioner In Charge, prescribe specifications for police uniforms and establish rules, regulations and conditions of wearing thereof;

- B.** Upon report from the Commissioner In Charge of the Bureau of Police, the Council shall designate which items of the uniform specified by the Chief of Police under subdivision (1) above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual police duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Chief of Police. Items furnished by the City shall remain property of the City; and the Chief of Police shall establish rules, regulations, and conditions for issuance and control thereof;
- C.** The Chief of Police shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

3.20.180 Appointment and Removal of Police Reserves.

(Amended by Ordinance No. 143623, effective June 13, 1977.) The Chief of Police is authorized, subject to the approval of the Commissioner In Charge, to appoint new members to the police reserve from time to time as need therefore arises and to accept the resignations and discontinue appointments from time to time in accordance with his judgment concerning the public welfare and safety subject to the approval of the Commissioner In Charge; provided that the total number of such reserves at any time shall not exceed 200.

- A.** Within the ranks of the police reserve the Chief of Police shall designate which members of the reserve shall serve as a special duty reserve unit. Members of the special duty reserve unit shall assist the Bureau in performing Sunshine Division, charitable, search and rescue and other non-law enforcement related functions.

3.20.190 Application, Oath of Office, Compensation and Equipment of Police Reserves.

(Amended by Ordinance Nos. 143623 and 164223, effective May 29, 1991.) Each new member of the police reserve shall make an application on a blank form provided by the Chief of Police, giving such data concerning his age, weight, identification, residence, occupation, previous experience in police work, if any, citizenship, and other data as the Chief of Police may find necessary or convenient, including fingerprinting for better identification. Members of such police reserve shall be entitled to no compensation unless specifically authorized and provided by the Council. Upon appointment each member shall take an oath of office similar to the oath required of regular members of the Bureau of Police, and such oath shall be filed with the City Auditor. Regular members of the reserve shall serve during the pleasure of the Chief and shall wear a uniform

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prescribed by the Chief of Police. They shall perform the duties and take training as directed by the Chief of Police. They shall observe the rules of deportment and conduct applicable to regular police officers. They shall, in the performance of their duties, be subject to the orders of commanding officers of the regular and reserve police force of the City. They shall, at all times, cooperate with regular police officers in the performance of their duties. While on any authorized assignment they shall be covered by the City's self-insurance as authorized under the provisions of the Oregon State Workers' Compensation Act. The insurance shall be in a form approved by the City Attorney. It is unlawful for any person whose appointment has been terminated, to retain possession or refuse to return any badge, identification or equipment issued to such person after demand for the return has been made by the Mayor, Chief of Police or anyone acting under and by the authority of the Mayor or Chief of Police. Members of the special duty police reserve shall be subject to police duty only when special occasion therefor arises. Each member shall provide his own equipment, subject to the approval of the Chief of Police, and shall make such reports as the Chief of Police may require.

3.20.200 Membership Card and Star of Police Reserves.

The Chief of Police is authorized to furnish each member of the police reserve with a membership card signed by the Chief of Police and signed by the member for identification purposes, and shall also furnish each member with a police star.

3.20.210 Police Reserves Exempt from Civil Service.

No member of the police reserve shall be regarded as a City employee or subject to civil service regulations.

3.20.230 Medical Examinations.

(Amended by Ordinance No. 134934, effective July 20, 1972.) Whenever the Chief of Police is in doubt concerning the physical or mental ability of a member of the Bureau of Police to perform full police duties, the Chief shall require that member, upon written notice, to submit to a medical examination. The examination shall be conducted without expense to the member. Unexcused failure to take an examination required by this Section, after reasonable notice, shall be cause for the member's dismissal.

3.20.240 Membership.

(Amended by Ordinance No. 136679, effective July 1, 1973.) The Bureau of Police shall consist of: a Chief of Police and all other full time members of the regular police force, and shall include all members of the women's protective division, and police matrons; and all such members shall be classed and considered as regular members of the Bureau of Police. All members of the Women's Protective Division, and all police matrons, are hereby required to comply with the rules and regulations of the Civil Service Board respecting physical examinations. The present police matrons shall (if they have not already done so) take and file with the City Auditor the oath of office required of members of the Bureau of Police, before they shall have full status as such members.

3.20.250 Badges.

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

3.20.260 Block Home Applicants, Background Investigation Required.

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

3.20.270 Maintenance of Property Room.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.280 Receipts for Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.290 Records.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.300 Prisoner's Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.310 Evidence Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.320 Miscellaneous Property and Storage Charges.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.330 Storage Charge on Prisoner's Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.340 Storage Charge on Evidence Property.

(Repealed by Ordinance No. 175944, effective September 26, 2001.)

3.20.350 Lien and Foreclosure.

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

3.20.360 Fees for Report on Police Records.

(Amended by Ordinance No. 153909, effective Nov. 22, 1982.) The Bureau of Police shall establish a schedule of fees and procedures for obtaining copies of reports, searching arrest records, accident photographs, fingerprinting, and all similar records services it performs. Except upon court subpoena, reasonable limitations may be placed upon the amount of information made available, the use for which it may be requested, and the persons entitled to receive it. The schedule of fees and procedures established under this Section shall not be effective until approved by the Commissioner In Charge of the Bureau of Police. No fee shall be charged to those agencies (or their representatives) who request such services for official use and who have as a primary organizational

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responsibility the apprehension, prosecution, or the direct supervision of the parole or probation, of criminal offenders.

3.20.370 Accountability and Disposition of Fees.

(Amended Ordinance No. 153909, effective Nov. 22, 1982.) The Chief of the Bureau of Police shall ensure that a full and complete record of all fees collected under that authority of this Chapter is kept and that all fees so collected are remitted to the City Treasurer as provided by Section 3.08.140. The City Treasurer shall credit the amounts so received to the General Fund.

3.20.380 Conveyances Seized for Drug Transport.

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

3.20.390 Multnomah County Deputy Sheriffs Authorized the Arrest or Cite for Violations of City Code Provisions.

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

Chapter 3.21

**CITY AUDITOR'S
INDEPENDENT POLICE REVIEW DIVISION**

(Chapter replaced by Ordinance No.
175652, effective July 1, 2001.)

Sections:

3.21.010	Purpose.
3.21.020	Definitions.
3.21.030	Independent Police Review Division.
3.21.040	Director Selection.
3.21.050	Staff and Delegation.
3.21.060	Office Facilities and Administration.
3.21.070	Powers and Duties of IPR.
3.21.080	Citizen Review Committee.
3.21.090	Powers and Duties of the Committee.
3.21.100	Council Role.
3.21.110	Intake.
3.21.120	Handling Complaints.
3.21.130	Communications.
3.21.140	Filing Requests for Review.
3.21.150	Case File Review.
3.21.160	Hearing Appeals.
3.21.170	Monitoring and Reporting.
3.21.180	Increasing Public Access.
3.21.190	Response of Chief.
3.21.200	Limitation on Power.
3.21.210	Subpoenas.

3.21.010 Purpose.

The City hereby establishes an independent, impartial office, readily available to the public, responsible to the City Auditor, empowered to act on complaints against Police Bureau personnel for alleged misconduct, and recommend appropriate changes of Police Bureau policies and procedures toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency and justice in the provision of community policing services. This office shall be known as the Independent Police Review Division.

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3.21.020 Definitions.

(Amended by Ordinance Nos. 176317 and 183657, effective April 30, 2010.) In this chapter:

- A.** “Appellant” means either:
 - 1.** A person who has filed a complaint with IPR and subsequently requested review of the investigation or
 - 2.** A member about whom a complaint has been filed with IPR and who has subsequently requested review by the Committee of the investigation.
- B.** “Bureau” means the Bureau of Police of the City of Portland, Oregon.
- C.** “Chief” means the Chief of the Bureau.
- D.** "Citizen" or “community member” means any person who is not an employee of the Bureau.
- E.** “Commissioner In Charge” means the Commissioner In Charge of the Bureau.
- F.** “Committee” means the IPR Citizen Review Committee, which is appointed by City Council members to assist the IPR in the performance of its duties and responsibilities pursuant to this Chapter.
- G.** “Complaint” means a complaint by a citizen, the Director, a member or other employee of the Bureau of alleged member misconduct.
- H.** "Complainant" means any person who files a complaint against a member of the Portland Bureau.
- I.** "Director" means the director of the Independent Police Review Division.
- J.** "Finding" means a conclusion reached after investigation as to whether facts show a violation of Bureau policy.
- K.** "Early Warning System" means the Bureau's method of identifying officers exhibiting a pattern of behavior that signals potential problems for both the Bureau and public, as explained in General Order 345.00.
- L.** “IAD” means the Internal Affairs Division of the Bureau, whose responsibilities and procedures are described in Section 330.00 of the Manual of Rules and Procedures of the Bureau, as amended from time to time.

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- M.** "IPR Investigator" means an investigator of the Independent Police Review Division.
- N.** "IPR" means the Independent Police Review Division.
- O.** "Member" means a sworn employee of the Bureau. An "involved" member is a member about whom a complaint has been submitted to IPR or the Bureau.
- P.** "Misconduct" means conduct by a member which conduct violates Bureau regulations or orders, or other standards of conduct required of City employees.
- Q.** "Request for Review" means a request by an appellant that the Committee review an IAD or IPR investigation of alleged member misconduct.
- R.** "RU (Responsibility Unit) Manager" means a commanding officer or manager of a Bureau division, unit or precinct.
- S.** "Supported by the Evidence." A finding regarding a complaint is supported by the evidence when a reasonable person could make the finding in light of the evidence, whether or not the reviewing body agrees with the finding.
- T.** "Police Review Board" means the board established by Code Section 3.20.140.
- U.** "Policy-related issue" means a topic pertaining to the Police Bureau's hiring and training practices, the Manual of Policies and Procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.

3.21.030 Independent Police Review Division.

There is established by the City Council the Independent Police Review Division within the Auditor's Office.

3.21.040 Director Selection.

The City Auditor shall select the Director of the IPR in accordance with any applicable civil service regulations and other laws. The Director shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice commensurate to the powers and duties of the office.

3.21.050 Staff and Delegation.

- A.** The Director may appoint other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the IPR.

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

3.21.060 Office Facilities and Administration.

- A.** The City shall provide suitable office facilities for the Director and staff in a location convenient for the public but separate from the Bureau.
- B.** The IPR office shall be located within the City Auditor's office, and be accountable to the City Auditor. The Director shall comply with City purchasing procedures but shall have sole discretion in choosing consultants to assist with investigations.

3.21.070 Powers and Duties of IPR.

(Amended by Ordinance Nos. 176317, 183657 and 185076, effective December 14, 2011.) The Director's powers and duties are the following:

- A.** Intake. IPR shall receive complaints and select the appropriate manner to address the complaint.
- B.** Report on complaint activities. IPR shall track and report on the disposition of complaints to the public, IAD, the Chief, and the Council and monitor and report measures of activity and performance of IAD and IPR. IPR will also monitor and track trends relating to member history and complaint type as well as frequency, consistency and adequacy of discipline imposed. In performing these duties, IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- C.** Access to Police data and data sources. IPR shall have access to Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for IPR to perform its duties. IPR shall also have direct access to original database sources as permitted by state and federal law.
- D.** Initiate, monitor and conduct investigations. IPR is authorized to initiate, monitor and conduct administrative investigations. IPR is authorized to identify complaints or incidents involving members that are of community concern which merit additional involvement of the Director and to review evidence and IAD investigation efforts, participate in investigations with IAD investigators, or conduct the investigations in conjunction with or independent of the Bureau. The

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Bureau shall notify the Director that it intends to conduct an administrative investigation into misconduct before initiating the investigation. IPR will conduct these investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.

- E.** Compel review. In accordance with the procedures of Code Section 3.20.140, IPR Director (or designee) may compel review by the Police Review Board of any recommended findings of or recommendation for discipline by an RU Manager or Commanding Officer resulting from an internal or IPR administrative investigation of a member. IPR Director (or designee) may compel review by the Police Review Board on the basis of recommended discipline whether or not discipline was recommended as a result of the investigation.
- F.** Communicate with Complainants. IPR will be the primary contact with the complainant regarding the status and results of the complaint; to assist IAD in communicating with the Member.
- G.** Arrange hearings of appeals. IPR will explain the appeal options to complainants and schedule hearings before the Committee and Council.
- H.** Recommend policy changes. IPR will evaluate complaint and other information and investigation practices to make recommendations to the Chief to prevent future problems. Policy change recommendations shall be published for public review.
- I.** Outreach. IPR will widely distribute complaint forms in languages and formats accessible to citizens, educate them on the importance of reporting complaints, and hold public meetings to hear general concerns about police services.
- J.** Access to records. Notwithstanding any other provision of City law, IPR shall have access to and be authorized to examine and copy, without payment of a fee, any bureau records, including records which are confidential by city law, and police databases, subject to any applicable state or federal laws. The Director shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Director shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- K.** Adoption of rules. IPR shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Director's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Director may not levy any fees for the submission or investigation of complaints.

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- L.** Review of closed investigations. IPR shall hire a qualified person to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis. IPR shall issue reports on an annual basis identifying any policy-related issues or quality of investigation issues that could be improved. The Director and the Citizen Review Committee shall address any policy-related or quality of investigation issues that would warrant further review.
- M.** Additional public reports. The Director may issue public reports related to member misconduct trends and Bureau disciplinary practices.
- N.** All bureau employees shall be truthful, professional and courteous in all interactions with IPR. No member shall conceal, impede or interfere with the filing, investigation or adjudication of a complaint.
- O.** The Auditor may work through the City Attorney's Office to hire outside legal counsel when the Auditor and the City Attorney agree that outside legal advice is necessary or advisable.

3.21.080 Citizen Review Committee.

(Amended by Ordinance Nos. 177688 and 185076, effective December 14, 2011.)

- A.** The Committee shall consist of nine citizens. The Committee members shall be appointed as follows:
 - 1.** The Director shall solicit applications from the Office of Neighborhood Involvement, the seven Neighborhood Coalition offices, Mayor and commissioners' offices, PPB advisory committees, and the general public.
 - 2.** The City Auditor shall appoint a committee that shall recommend to the Auditor the appropriate number of nominees to fill impending vacancies. The committee shall consist of three CRC representatives, either past or not applying for reappointment, two members of the community, and the Director. Three of the committee members, including one CRC representative and the Director, shall serve as the interview panel.
 - 3.** Selection criteria shall include a record of community involvement, passing a criminal background check performed by an agency other than the Bureau, and absence of any real or perceived conflict of interest. The Mayor and commissioners may each submit an applicant who may be given preference over others of equivalent background and qualifications.
 - 4.** The Auditor shall recommend nominees to Council for appointment.

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5. In the event a majority of the Council fails to appoint a person nominated under the provisions of City Code Section 3.21.080 the Auditor shall initiate the process again within 30 days after the Council action.
6. In selecting Committee members, consideration shall be given to the current composition of the Committee and appointments should be made that will cause the group to best reflect the demographic make-up of the community.

B. The Committee members shall:

1. Participate in orientation and training activities that may include review of Bureau and IPR procedures, attending the Bureau Citizens' Academy, ride-alongs with officers, and training on investigative practices.
2. Each serve a term of three years, subject to reappointment by Council. Upon expiration of the term, a committee member shall serve until re-appointed or replaced.
3. Attend committee meetings or provide an explanation in advance for an absence.
4. Serve staggered terms to better ensure continuity. Four members of the Committee shall be appointed to one year terms in July 2001.
5. Select a chair from among their members. Adopt such operating policies and procedures as necessary to carry out their duties.

3.21.090 Powers and Duties of the Committee.

(Amended by Ordinance Nos. 177688 and 185076, effective December 14, 2011.)

A. The Committee's duties and powers are the following:

1. Conduct meetings. To schedule and conduct at least four meetings per year for the purpose of exercising the authority delegated to it in this chapter. Quarterly meetings and hearings conducted pursuant to the Chapter shall be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710. The number of Committee members required for a quorum shall be five.
2. Gather community concerns. To participate in various community meetings to hear concerns about police services.

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3. Recommend policy changes. To evaluate complaint, investigative practices, and other information to make policy recommendations to the Chief of Police, the Director, and the Council to prevent and rectify patterns of problems.
4. Advise on operations. To review methods for handling complaints and advise on criteria for dismissal, mediation, and investigation.
5. Hear appeals. To hold hearings of complainant or member appeals as defined in City Code Section 3.21.160; to recommend referral to a final hearing before Council; to publicly report its findings, conclusions and recommendations.
6. Outreach to public. To advise and assist the Director to disseminate information about IPR and Committee activities to organizations in the community; to present reports to Council.
7. Create other committees. To create special purpose subcommittees or committees including other citizens to address particular short-term issues and needs.

3.21.100 Council Role.

- A. Council shall review applications of nominees to the Committee and vote whether to approve each appointment.
- B. Council shall hear final appeals as specified in 3.21.160.

3.21.110 Intake.

(Amended by Ordinance No. 179162, effective March 30, 2005.)

- A. The Director shall receive complaints from any source concerning alleged member misconduct. The Director shall make reasonable accommodation when complainants cannot file their complaint at the IPR office.
- B. The Director shall develop procedures for handling complaints and appeals involving matters currently in litigation or where a notice of tort claim has been filed. The Director shall not initiate a case where a grievance or other appeal has been filed under a collective bargaining agreement or City personnel rules; or with respect to employee or applicant discrimination complaints.
- C. The Director, when requested, shall protect the confidentiality of complainants, members or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the

Director to carry out his or her duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. When considering a request for public records, the Director shall consult with appropriate Bureau personnel and obtain approval from the Bureau prior to disclosure of records under the Oregon Public Records Law.

3.21.120 Handling Complaints.

(Amended by Ordinance Nos. 179162 and 183657, effective April 30, 2010.) To ensure appropriateness and consistency in handling complaints the Director shall work with the Committee to establish procedures for taking action based upon the characteristics of the complaint.

- A. Mediation. The complainant, the Member who is the subject of the complaint, and Bureau administration must all agree before a mediation can be conducted. A complaint that undergoes mediation shall not be investigated. A mediation may be suspended if, in the opinion of the mediator, there is no reasonable likelihood of reaching resolution.
- B. Complaint Types:
 - 1. Complaint Type I: The Auditor's Independent Police Review division is the intake point for complaints from community members and others regarding the conduct of members during an encounter involving a community member. Type I complaints involve alleged misconduct of a member during an encounter involving a community member.
 - 2. Complaint Type II: A complaint about alleged member misconduct that does not occur during an encounter involving a community member is a Type II complaint. Such a complaint may be initiated by another Bureau employee or supervisor, or may be based on information obtained from another law enforcement agency, an employee of governmental agency acting in his/her official capacity or a community member. These complaints may be filed with the Bureau or with IPR.
 - 3. Complaint Type III: A complaint may be initiated by the IPR Director at the discretion of the Director that an administrative investigation is warranted. IPR can initiate a complaint whether or not the alleged misconduct occurred during an encounter involving a community member and is not dependent on a community or Bureau member filing a complaint.
 - a. IPR will initiate and conduct administrative investigations in accordance with Human Resources Administrative Rules regarding process and investigation of complaints of discrimination.

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- b. If a criminal investigation has been initiated against the involved member, or during the course of an IPR administrative investigation a basis for conducting a criminal investigation arises, IPR shall advise the City Attorney and/or District Attorney prior to initiating or continuing an administrative investigation. IPR shall take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.
 4. Complaint Type IV: When Bureau supervisors generate complaints about poor member performance or other work rule violations. RU managers are responsible for intake and investigation of allegations of Type IV cases.
- C. Initial Handling and Investigation of Type I Complaints
1. Once IPR receives a Type I complaint regarding alleged misconduct of a member during an encounter involving a community member, IPR will:
 - a. Gather information about the complaint through an intake interview;
 - b. Assign an IPR/IAD Case Number;
 - c. Make a case handling decision; and
 - d. Send a letter to the complainant summarizing the complaint and the Director's case handling decision.
 2. If IPR determines an investigation is appropriate, IPR will identify the complainant's allegations and either:
 - a. Recommend that the Bureau/IAD conduct an investigation

The IPR shall gather information from the complainant and forward it to the Bureau/IAD. The IPR shall monitor the on-going Bureau investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD the Director shall notify the IAD Commander of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate.
When a collective bargaining agreement is applicable and specifies

that a member may only be interviewed by a police officer, IPR personnel shall direct questions through the IAD investigator. The IAD investigator may repeat the question to the member and/or direct the member to answer the question.

IPR personnel shall have an opportunity to review and comment on draft reports regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation cannot be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

b. IPR may conduct an independent investigation.

The IPR Director or designee may determine that IPR should investigate a complaint. If the Director concludes that IAD has not done an adequate job investigating complaints against a particular member, the Director may determine that IPR should investigate a complaint against the member. If the Director concludes that IAD has not done an adequate job investigating a particular category of complaints, the Director may determine that IPR should investigate a complaint or complaints falling in that category. If the Director concludes that IAD has not completed its investigations in a timely manner, the Director may determine that IPR should investigate some complaints. The Director has the discretion to conduct an independent investigation. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member.

IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, the Director shall notify the IAD commander that IPR has undertaken an investigation and the reason. The IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews. When members represented by a collective bargaining unit are being interviewed by IPR

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personnel, the IAD investigator may repeat the question and/or direct the member to answer the question. When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, and present the IPR investigation to the RU manager for preparation of findings and proposed discipline. At the completion of the investigation and any appeal process the records of the investigation shall be transferred to the IAD offices for retention.

3. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.
4. Dismissal. If IPR declines to take action on the complaint, IPR will send a dismissal letter to the complainant. IPR will also notify the involved officer(s) and involved commanding officer within 30 calendar days of the dismissal. The Director may dismiss the complaint for the following reasons:
 - a. the complainant could reasonably be expected to use, or is using, another remedy or channel or tort claim for the grievance stated in the complaint;
 - b. the complainant delayed too long in filing the complaint to justify present examination;
 - c. even if all aspects of the complaint were true, no act of misconduct would have occurred;
 - d. the complaint is trivial, frivolous or not made in good faith;
 - e. other complaints must take precedence due to limited public resources;
 - f. the complainant withdraws the complaint or fails to complete necessary complaint steps.

- g. it is more likely than not that additional investigation would not lead to a conclusion that the officer engaged in misconduct.

D. Initial Handling and Investigation of Type II Complaints

1. If a Type II complaint is filed with IPR, IPR will gather information about the complaint and make a case handling decision. When appropriate, IPR will assign an IPR/IAD case number. Before disposing of a complaint of alleged misconduct or initiating an investigation, IPR shall notify the Bureau in writing how it intends to process the complaint and whether it intends to refer the case to the Bureau/IAD to conduct an investigation or conduct an independent investigation as set forth below. IPR will make an entry regarding the allegations in the Administrative Investigation Management (AIM) or other appropriate database which can be reviewed by the IPR Director.
2. If a Type II complaint is filed within the Bureau, Bureau/IAD staff will create an intake worksheet and assign an IPR/IAD case number for use by IAD. Before disposing of a complaint of alleged misconduct or initiating an investigation, the Bureau/IAD shall notify the Director in writing how it intends to process each complaint and whether it intends to conduct an internal investigation. In addition, the Bureau/IAD will make an entry regarding the allegations in the Administrative Investigation Management (AIM) database or other appropriate database which can be reviewed by the IPR Director.
3. Bureau/IAD Investigation. If the Type II complaint is filed with IPR, the IPR shall gather information from the complainant and forward it to the Bureau/IAD. The IPR shall monitor the on-going investigation. The Director may determine that a Bureau/IAD investigation should also involve IPR personnel. When forwarding the complaint to the Bureau/IAD, the Director shall notify the Bureau/IAD Commander of the extent that IPR personnel must be included in the investigation. Bureau/IAD personnel shall schedule interviews and other investigative activities to ensure that IPR personnel can attend and participate. When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, IPR personnel shall direct questions through the IAD investigator. The IAD investigator may repeat the question to the member and/or direct the member to answer the question. When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question. IPR personnel shall have an opportunity to review and comment on draft

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reports regarding a Bureau/IAD investigation to ensure accuracy, thoroughness, and fairness. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete.

To facilitate review, IAD shall tape record all interviews with witnesses, including members of the Bureau, conducted during an IAD investigation and shall make those tapes, or accurate copies, available during a review of an IAD investigation.

In carrying out its functions, the IPR may visit IAD offices, examine documents, reports and files and take such other actions as the Director deems necessary and consistent with the purposes of this Chapter. To maintain the security of IAD documents, reports or files, the Chief may require that the examinations be conducted in the IAD offices.

4. IPR independent investigation. The IPR Director or designee may determine that IPR should investigate a complaint. If the Director concludes that IAD has not done an adequate job investigating complaints against a particular member, the Director may determine that IPR should investigate a complaint against the member. If the Director concludes that IAD has not done an adequate job investigating a particular category of complaints, the Director may determine that IPR should investigate a complaint or complaints falling in that category. If the Director concludes that IAD has not completed its investigations in a timely manner, the Director may determine that IPR should investigate some complaints. The Director may conduct an independent investigation based on the Director's discretion that it is warranted. The Director may conduct an independent investigation whether or not the alleged misconduct involves an encounter with a community member.

IPR investigations shall be conducted in conformance with legal and collective bargaining provisions. When a collective bargaining agreement is applicable and specifies that a member may only be interviewed by a police officer, the Director shall notify the Bureau/IAD commander that IPR has undertaken an investigation and the reason. The Bureau/IAD commander shall appoint a liaison investigator from that office within two working days to arrange and participate in interviews. When members represented by a collective bargaining unit are being interviewed by IPR personnel, the IAD investigator may repeat the question and/or direct the member to answer the question. When a collective bargaining agreement is not applicable and does not specify that a member may only be interviewed by a police officer, then the Director shall ask the member the question directly and/or direct the member to answer the question.

The Director shall provide the IAD commander and the Police Chief with a report on the investigation, and present the IPR investigation to the RU manager for preparation of findings and proposed discipline. At the

completion of the investigation the records of the investigation shall be transferred to the IAD offices for retention.

5. Referral. IPR may refer a complaint regarding quality of service or other rule violations that likely would not result in discipline according to the Bureau. The Director may refer the complainant to another bureau in the City or another agency that would be more appropriate to address the complaint.

E. Initial Handling and Investigation of Type III Complaints

Upon opening a Type III IPR initiated complaint investigation. IPR staff will create an intake worksheet and assign an IPR/IAD case number. If a Type III case involves alleged member misconduct during an encounter involving a community member, the case will be handled following the same procedures as a Type I complaint. If a Type III case involves alleged member misconduct that does not occur during an encounter involving a community member, the case will be handled following the same procedures as a Type II complaint.

F. Initial Handling and Investigation of Type IV Complaints

RU managers are responsible for intake and investigation of allegations of Type IV cases. The RU manager will provide the IPR Director a summary of the complaint and a summary of any subsequent investigation of a sworn member. The IPR Director may refer the matter to IAD for further investigation, conduct additional investigation, or controvert the RU manager's recommendations and compel review by the Police Review Board after receiving the completed investigation.

G. Type I, II, III & IV Post-Investigative Case Handling Procedures:

1. Adequacy of investigation. When an investigation of any type of complaint is conducted by IAD or other designated PPB division, after the investigation is complete, IAD will provide the IPR Director or designee with a copy of and provide unrestricted access to the entire investigation file. Upon review of the file, the Director or designee must determine whether or not the investigation is adequate, considering such factors as thoroughness, lack of bias, objectivity, and completeness. If the Director or designee determines that the investigation is not adequate, the investigation shall be returned to the IAD or other designated division within the Bureau explaining the determination and providing direction. Such direction shall include, but not limited to, rewriting portions of the summary, gathering additional evidence, conducting additional interviews, or re-interviewing officers or civilians. The investigation can not be closed or sent to the RU manager without IPR's determination that the investigation is complete. Upon receipt of IPR's determination that the

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investigation is complete, IAD shall send the investigation to the appropriate RU Manager.

2. Submission of recommended findings or proposed discipline. The RU manager will review the investigation for any type of complaint when the investigation is conducted by IAD, other designated PPB division or IPR and submit recommended findings and proposed discipline to the supervising Assistant Chief. The supervising Assistant Chief will circulate the recommended findings and proposed discipline to the Director and the Captain of IAD. After receipt of the recommended findings and proposed discipline, the supervising Assistant Chief, the Director or the Captain of IAD may controvert the RU Manager's recommended findings and/or proposed discipline.
3. Police Review Board meeting. If the recommended findings and/or proposed discipline are controverted, the Bureau shall schedule a Police Review Board meeting on the complaint. As specified in Code Section 3.20.140, the Police Review Board shall also hold a meeting for review of a case if it involves an officer-involved shooting, physical injury caused by an officer that requires hospitalization, an in-custody death, a less lethal incident where the recommended finding is "out of policy" or if the investigation resulted in a recommended sustained finding and the proposed discipline is suspension without pay or greater.
4. Notification and Appeals of Type I and III complaints without Police Review Board meeting. In Type I cases, and Type III cases where the alleged misconduct occurred during an encounter involving a community member, if the recommended findings are not sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. IPR will notify the complainant that they have a right to request a review of the Bureau's recommended findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the disposition of the complaint. The Bureau will notify the involved member of the right to request a review of the recommended findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.
5. Notification and Appeals of Type I and III complaints after Police Review Board hearing. In Type I cases and Type III cases where the alleged misconduct occurred during an encounter with a community member and

the recommended findings are sent to the Police Review Board for a meeting, the Director shall send a letter to the complainant explaining the disposition of the complaint and add any appropriate comment regarding the reasoning behind the decision. IPR will notify the complainant that they have a right to request a review of the recommended findings to the Committee and provide an appeal form. The Bureau will notify the involved member regarding the proposed findings of the Police Review Board. The Bureau will notify the involved member of the right to request a review of the recommended findings to the Committee. The Bureau will be responsible for providing the member and union representative with the appeal form. A copy of the communications sent by IPR and IAD will be placed into the AIM database or other appropriate database for both IPR and IAD review.

6. No appeal of Type II and certain Type III complaints. In Type II cases and Type III cases that involve alleged member misconduct that does not occur during an encounter involving a community member, the recommended findings may not be appealed to the Committee.
7. Nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section.

3.21.130 Communications.

The IPR shall ensure that the complainant and member complained about are informed of the progress and status of the complaint or appeal. Communication may be accomplished orally or by first class mail.

3.21.140 Filing of requests for review.

(Amended by Ordinance No. 183657, effective April 30, 2010.)

- A. Any complainant or member who is dissatisfied with an investigation of alleged member misconduct that occurred during an encounter with a community member may request a review.
- B. The request for review must be filed within 30 calendar days of the complainant or member receiving IPR's notification regarding disposition of the case. The Director may adopt rules for permitting late filings.
- C. A request for review must be filed in writing personally, by mail or email with the IPR Office, or through other arrangements approved by the Director.
- D. The request for review shall include:

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1. The name, address, and telephone number of the appellant;
 2. The approximate date the complaint was filed (if known);
 3. The substance of the complaint;
 4. The reason or reasons the appellant is dissatisfied with the investigation.
- E. The complainant or member may withdraw the request for review at any time.

3.21.150 Case File Review.

(Amended by Ordinance No. 185076, effective December 14, 2011.)

- A. When a timely appeal has been submitted to and accepted by the Director, the Director and the Committee chair will schedule a case file review meeting before the Committee to assess the completeness and readiness of the investigation for an appeal hearing.
- B. As a result of the case file review, IPR or IAD may conduct additional investigation in accordance with applicable provisions of the collective bargaining agreements covering Bureau personnel per Section 3.20.120.

3.21.160 Hearing Appeals.

(Amended by Ordinance No. 185076, effective December 14, 2011.)

- A. An Appeal Hearing shall be conducted after a majority vote of the Committee to hold such a hearing at the case file review or other meeting of the full Committee.
 1. At the Appeal Hearing the Committee shall decide by majority vote:
 - a. To recommend further investigation by IAD or IPR; or
 - b. If the finding is supported by the evidence. In a case where the majority of the voting members of the Committee affirms that the Bureau's recommended findings are supported by the evidence, the Director shall close the complaint; or
 - c. If the finding is not supported by the evidence. In a case where a majority of the voting members of the Committee challenges one or more of the Bureau's recommended findings by determining that one or more of the findings is not supported by the evidence, and recommends a different finding, the Director shall formally advise the Bureau in writing of the Committee recommendation.

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- (1) If the Bureau accepts the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall close the case.
 - (2) If the Bureau does not accept the recommendation, the Bureau shall formally advise the Director in writing, and the Director shall schedule the case for a conference hearing.
 - (a) At the conference hearing, if the Committee, by a majority vote, is able to reach an agreement with the Bureau on the recommended findings, the Director shall close the case.
 - (b) If, by majority vote, the Committee can not reach an agreement with the Bureau on the recommended findings, the Committee shall vote whether to present the appeal to City Council.
 - (c) If, by majority vote, the Committee decides to present the appeal to City Council, the Director and the Committee Chair will schedule an appeal hearing before City Council. The Committee shall appoint one of its members to present its recommended findings during the appeal to City Council.
2. In its hearing the Council shall decide:
 - a. If the finding is supported by the evidence. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint; or
 - b. If the finding is not supported by the evidence. The Council shall decide what the finding is. The Director shall inform the complainant, member, IAD and the Chief of the Council's decision and close the complaint.
- B. In reviewing the investigation, the Committee may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, and any documents accumulated during the investigation and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Committee may receive any oral or written statements volunteered by the complainant or the member or other officers involved or any other citizen. The complainant or

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member may appear with counsel. When the Committee's review process develops new information, the Committee may consider the new information when determining if additional investigation is warranted, but the Committee may not incorporate the new information in the evidentiary record the Committee considers when determining if a finding is supported by the evidence.

- C.** In reviewing the investigation, the Council may examine the appeal form and any supporting documents, the file and report of the IAD and IPR, any documents accumulated during the investigation, the recording of the Committee's case file review and appeal hearing, the Committee's Case File review Worksheet, and may listen to the tape recordings of the witnesses produced by IPR and IAD. The Council may receive any oral or written statements volunteered by the complainant or the member about whether or not they believe the finding is or is not supported by the evidence in the record. No new evidence may be introduced in the hearing. The complainant or member may appear with counsel.

- D.** Witnesses.

- 1.** The Committee and Council may require within its scope of review the investigators and Commander of IAD and the Director to appear and answer questions regarding the investigation and may also require the responsible Bureau Commander to answer questions regarding the basis and the rationale for a particular decision.
- 2.** Other Witnesses. Other witnesses shall not be required to appear involuntarily before the Committee.
- 3.** Council may utilize the full powers granted by Section 2-109 of the Charter, including the power to compel the attendance and testimony of witnesses, administer oaths and to compel the production of documents and other evidence. The power to compel the attendance and testimony of witnesses in accordance with City Code Section 3.21.160 D.3. shall not be delegated by the Council to the Committee.

3.21.170 Monitoring and Reporting

(Amended by Ordinance No. 181483, effective January 18, 2008.)

- A.** The Director shall develop a data system to track all complaints received, develop monthly reports to inform IAD and the Chief regarding IAD workload and performance, and inform complainants and members regarding the status of complaints and appeals.
- B.** The Director shall use complaint and OMF Risk Management Division data to support the Bureau's Early Warning System.

- C. The Director shall work with the Committee to develop recommendations to modify Bureau policies and procedures in order to prevent problems, improve the quality of investigations, and improve police-community relations.
- D. The Director shall work with the Committee to develop quarterly and annual summary reports for the Chief, Commissioner in Charge, Council and public on IPR and IAD activities, policy recommendations, and Bureau follow-through on recommendations. The report may include analysis of closed files which were not appealed, but it is not the intent that the files be reopened.

3.21.180 Increasing Public Access

- A. The Director shall work with the Committee to make complaint forms available in formats and locations to reach as many community members as possible.
- B. The Director shall work with the Committee to develop programs to educate the public about the IPR and the importance of reporting problems.
- C. The Director shall work with the Committee to develop programs to educate Bureau personnel on the complaint process, mediation, and IPR activities. Bureau personnel shall be informed that the IPR is the primary means for citizens to file complaints.
- D. The IPR, Committee and Bureau shall develop guidelines for situations when a commander or supervisor in a precinct is directly contacted by a complainant with a complaint. In general, they may intervene and attempt to resolve the complaint themselves, but they must also inform complainants that they can still file with IPR if they do not achieve satisfaction.

3.21.190 Response of Chief.

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

3.21.200 Limitation on Power.

The Committee and Director are not authorized to set the level of discipline for any member pursuant to any request for review made under this Chapter. However, this

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Section shall not be construed to limit the authority granted to City Council by the City Charter, City Code, state statutes, and other applicable law.

3.21.210 Subpoenas.

(Added by Ordinance No. 183657, effective April 30, 2010.) IPR shall have the authority to issue subpoenas for the purpose of compelling witness testimony or the production of documents, photographs, or any other evidence necessary for IPR to fully and thoroughly investigate a complaint or conduct a review.

IPR personnel will not subpoena a sworn Bureau member employed by the Portland Police Bureau, but is authorized to direct Bureau members to cooperate with administrative investigations as described in Section 3.21.120.

Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.

Chapter 3.22

PORTLAND FIRE & RESCUE

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

Sections:

- 3.22.010 General Organization.
- 3.22.020 Organized by Council - Subject to Civil Service.
- 3.22.030 Council Powers.
- 3.22.040 Care of Property by Council.
- 3.22.050 Duties of Chief Engineer.
- 3.22.060 Destroying Buildings to Check Fire.
- 3.22.070 Appointment of Temporary Employees.
- 3.22.080 Assignment of Disabled Members.
- 3.22.090 Rules and Regulations and Administrative Orders.
- 3.22.100 Uniforms.
- 3.22.110 Fire Suppression and/or Prevention Contracts.
- 3.22.120 Renewal Notices.
- 3.22.130 Contract Form to be Approved by City Attorney.
- 3.22.140 Mutual Assistance Agreements.
- 3.22.150 Use of Fire Boats for Pumping Water Out of Boats and Barges.
- 3.22.160 Fees for Pumping Water from Imperiled Vessels.
- 3.22.170 Distribution of Awards Earned by Members of Portland Fire & Rescue.
- 3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

3.22.010 General Organization.

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

- A. The Emergency Operations Division, which shall be responsible for the saving of life and property from fire or other disaster, emergency medical services, hazardous materials incidents, conducting a fire loss control program, training and other miscellaneous public services;

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

3.22.020 Organized by Council - Subject to Civil Service.

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

3.22.030 Council Powers.

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

3.22.040 Care of Property by Council.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The Council shall have the custody and management of all the public property, including the fire alarm telegraph, pertaining to Portland Fire & Rescue. It shall have power and authority, subject to the

limitations and appropriations made and expenditures authorized by the Council, to purchase and acquire all necessary apparatus, including fireboats, engines, hose, hose carriages, and all other personal property which the exigencies of an efficient Portland Fire & Rescue may require. It shall have power and authority to sell and dispose at public sale under the provisions of the Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the Council unfit for service in the Bureau. The proceeds of any such sale shall be paid by the purchaser to the Treasurer of the City, who shall issue a proper receipt therefor, and all such monies shall be credited to the General Fund of the City.

3.22.050 Duties of Chief Engineer.

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

3.22.060 Destroying Buildings to Check Fire.

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

3.22.070 Appointment of Temporary Employees.

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

3.22.080 Assignments of Disabled Members.

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

3.22.090 Rules and Regulations and Administrative Orders.

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

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3.22.100 Uniforms.

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

- A.** The Chief of the Bureau shall, subject to the approval of the Commissioner In Charge, prescribe specifications for fire uniforms and establish rules, regulations and conditions of wearing thereof.
- B.** Upon report of the Commissioner In Charge of Portland Fire & Rescue, the Council shall designate which items of the uniform specified by the Chief of the Bureau under subdivision A above shall be furnished by the City to those employees required to wear the prescribed uniform in performance of their normal and usual fire duties. Each new employee shall be furnished a complete set of designated items of uniform. All other employees shall be furnished designated items of uniform on the basis of replacement when needed as determined by the Fire Chief. Items furnished by the City shall remain property of the City. The Fire Chief shall establish the rules, regulations and conditions for issuance and control thereof;
- C.** The Chief of the Bureau shall have the authority to designate duty assignments which require dress other than the prescribed uniform. For such designated duty, no items of uniform shall be furnished, and those employees affected shall receive an annual cash clothing allowance in lieu of the items of uniform furnished by the City. Clothing allowances shall be paid in accordance with Section 5.08.070.

3.22.110 Fire Prevention and Suppression Contracts.

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

- A.** The City shall provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B.** Payment for services by individuals and private organizations, having no tax levying authority under State law, shall be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The Auditor shall execute such contracts only upon receipt of such payment;
- C.** Contracts with political subdivisions of the State shall be entered into only upon certification to the Auditor by the governing body of such political subdivision

that there will be assessed upon the taxpayers of such political subdivision an amount not less than:

1. The contract price.
2. Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
3. An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

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

D. As used in this Section:

1. **“Effective year”** means the fiscal year in which the contract is operative,
2. **“Previous year”** means the fiscal year first preceding the effective year.
3. **“Property owner’s assessed value”** means the assessed value in the previous year of land, improvements and personal property of the individual, organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the City Auditor shall decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner’s assessed valuation, be outside Multnomah County, the assessed value shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
4. **“Assessed value of City property”** means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying outside Multnomah County shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
5. **“Cost to City taxpayers”** means the sum, to the nearest dollar, of:

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- a. Portland Fire & Rescue General Fund budget of the previous year,
 - b. A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;
 - c. Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;
- E. The charge for City fire suppression and fire prevention services by contract authorized under this Section shall be computed by the following formula:

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

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

3.22.120 Renewal Notices.

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

3.22.130 Contract Form to be Approved by City Attorney.

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

3.22.140 Mutual Assistance Agreements.

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

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

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

3.22.160 Fees for Pumping Water from Imperiled Vessels.

(Amended by Ordinance No. 160883, effective June 9, 1988.) The fees for the emergency pumping services permitted by Section 3.22.150 shall be \$200 per hour. The owner, owner's agent, or master of the vessel requesting the nonfire emergency pumping service shall be advised that the pumping fee shall be \$200 per hour before a fire boat is dispatched to the emergency location. The fire boat officer, on arrival, shall obtain written agreement from the owner, owner's agent or master of the vessel in peril to pay the City \$200 per hour for salvage pumping before beginning operations. When the service of the fire boat is completed, the Chief of Portland Fire & Rescue shall certify to the Commissioner In Charge the exact time employed by the fire boat, and the Commissioner shall thereupon make a final charge for such service and require payment of such charge by the applicant. In the event salvage efforts fail, and if so recommended by the Chief Engineer (Fire Chief), the Commissioner In Charge of Portland Fire & Rescue may reduce or omit the pumping fee.

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

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

3.22.180 Forested and Wildland Interface Areas Fire Protection Plan.

(Amended by Ordinance Nos. 160127, 160883, 168127 and 182389, effective January 2, 2009.)

A. General Provisions.

- 1. Title.** This plan shall be known as the Forested and Wildland Interface Areas Protection Plan of the City.

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

B. Plan Coordination.

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

PROGRAM I:	Bureau of Parks
PROGRAM II:	Portland Fire & Rescue
PROGRAM III:	Bureau of Police
PROGRAM IV:	Portland Water Bureau
PROGRAM V:	General Services
PROGRAM VIII:	Maintenance Operations

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PROGRAM IX: Reserved for Nongovernmental
PROGRAM X: Reserved for Nongovernmental

C. Command Responsibility for Fire Fighting.

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

D. Activation and Response.

1. All participants and resources listed in the plan will be activated in accordance with the plan at the request of the Incident Commander.
2. All participants in the plan will send liaison personnel to the field headquarters, support command headquarters, and the Emergency Operations Center as requested by the Incident Commander.

E. Personnel alerting.

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

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Chapter 3.24

PORTLAND WATER BUREAU

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

Sections:

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

3.24.010 Organization.

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

3.24.020 Administration.

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

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

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

3.24.030 Customer Service Group.

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

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

3.24.040 Engineering Services Group.

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

3.24.050 Finance and Support Services Group.

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

3.24.060 Maintenance and Construction Group.

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

3.24.070 Operations Group.

The Operations Group is responsible for the operation and maintenance of water supply and treatment from the Watershed and the Columbia South Shore Well Field (CSSWF). This group operates and maintains the conduits, terminal storage reservoirs, tanks, pump

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stations, water treatment facilities, pressure regulators, an accredited Laboratory, and the Water Control Center. Work responsibilities include water quality protection, regulatory compliance, laboratory services, system metering, and addressing water quality customer complaints. This group is also responsible for the operation and maintenance of the decorative fountains.

3.24.080 Resources Protection and Planning Group.

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

Chapter 3.26

BUREAU OF PARKS

Sections:

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

3.26.010 Organization Generally.

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

3.26.020 Executive and Clerical Division.

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

3.26.030 Park Maintenance and Operation Division.

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

3.26.040 Nursery and Planting Division.

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

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

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3.26.050 Public Recreation Division.

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

3.26.060 Municipal Stadium Division.

(Repealed by Ordinance No. 185569, effective September 28, 2012.)

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

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

3.26.090 Solar Friendly Trees.

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

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

Chapter 3.27

**PORTLAND PARKS AND
RECREATION BOARD**

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

Sections:

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

3.27.010 Purpose.

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

3.27.020 Definitions.

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

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

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

3.27.030 Members and Terms.

(Amended by Ordinance No. 184647, effective June 8, 2011.)

- A. Voting Members. The Portland Parks Board shall consist of a minimum of nine (9) and a maximum of fifteen (15) voting members appointed by the Mayor in consultation with the Commissioner, and confirmed by the Council. Members shall serve without compensation for terms of three years. No member shall be appointed to more than two full consecutive terms. A member appointed initially to a term of less than three years may thereafter be re-appointed to two consecutive three-year terms. A member otherwise may be re-appointed after at least one full year following completion of the member’s two consecutive terms. The initial appointments shall be staggered in order to provide for a proportional turnover of terms each year. Members shall be appointed who demonstrate a commitment to Portland Parks and Recreation and to the mission of the Board. Members are expected to bring a system-wide perspective to the Board, and shall not represent individual interests or areas of the City. However, the membership of the Board shall strive to reflect the demographic and geographic diversity of the City.
- B. Ex Officio Members. The Board may, in its discretion, appoint such ex officio members as, in the judgment of the Board, will assist it in carrying out its functions. Such ex officio members shall be appointed in a manner to be determined by the Board. Ex officio members shall not have the right to vote. Ex officio members shall not be subject to the term limitations of Subsection A. of this Section, but the Board may, by rule or regulation, provide for terms and other conditions of service of ex officio members as it may deem necessary or desirable.

3.27.040 Organization and Meetings.

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

3.27.050 Duties.

The Board shall:

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- A.** Advise the Council, the Commissioner and the Director on policy matters pertaining to Portland Parks and Recreation, using the Parks 2020 Vision as its guide.
- B.** Advise the Council, the Commissioner and the Director on the preparation and contents of the annual Portland Parks and Recreation budget request.
- C.** Review plans and policies, either existing or being developed, by other City bureaus, boards and commissions or by other government agencies, that affect parks and recreation in the City of Portland, and advocate for the advancement of parks, natural areas, open spaces and recreation facilities and services in City and regional planning and design.
- D.** Engage in such public outreach, education and advocacy, to the extent permitted by law, as the Board determines necessary or advisable in order to provide a forum for public discussion and decision-making about park and recreation issues.
- E.** Prepare and submit to the Council an annual report which shall summarize the Board's activities during the year and which shall identify the major issues facing Portland Parks and Recreation and the Board's recommendations for addressing them in the coming year.

3.27.060 Staff Liaison and Support.

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

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Chapter 3.28

BUREAU OF HEALTH

Sections:

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

3.28.010 Transfer of Functions.

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

3.28.020 Executive and Clerical Division.

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

3.28.030 Communicable Disease Control Division.

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

3.28.040 Tuberculosis Control Division.

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

3.28.050 Venereal Disease Control Division.

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

3.28.060 Laboratory Division.

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

3.28.070 School Hygiene Division.

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

3.28.080 Emergency Hospital Division.

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

3.28.090 Pure Food Sanitation Division.

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

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

3.28.100 Division of Mental Health.

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

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3.28.110 Division of Home Health Care.

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

Chapter 3.30

BUREAU OF DEVELOPMENT SERVICES

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

Sections:

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

3.30.005 Organization.

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

3.30.010 Duties of the Bureau of Development Services.

(Amended by Ordinance Nos. 176955, 180330, 182671 and 182962, effective July 31, 2009.) The Bureau of Development Services shall be responsible for:

- A.** The administration and enforcement of:
 - 1.** Noise Control, Title 18;
 - 2.** Building Regulations, Title 24.
 - 3.** Plumbing Regulations, Title 25.
 - 4.** Electrical Regulations, Title 26.

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5. Heating and Ventilating Regulations, Title 27.
 6. Floating Structures, Title 28.
 7. Property Maintenance Regulations, Title 29.
 8. Signs and Related Regulations, Title 32.
 9. Original Art Murals, Title 4.
 10. State of Oregon Regulations regarding manufactured dwellings.
 11. Other regulations enacted by the State of Oregon and adopted by the City Council and assigned to the Bureau.
- B.** The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.
- C.** The examination and checking of applications, plans, specifications and supporting documentation required as a prerequisite to the approval of land use actions and permits for development.
- D.** The coordination of related permits with other bureaus and offices as required to manage the Development Services Center.
- E.** The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings or equipment.
- F.** The inspection of sites, buildings or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws; and
- G.** Other duties as assigned to the Bureau.
- 3.30.020 Responsibility for the Development Services Center and Development Review.**
(Amended by Ordinance No. 176955, effective October 9, 2002.)
- A.** The Bureau of Development Services shall be responsible for the operation and management of the City's Development Services Center.

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

3.30.030 Development Review Advisory Committee.

(Amended by Ordinance Nos. 176955, 178954, 184046 and 184183, effective November 26, 2010.)

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

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persons concerned about planning, design and development. The areas of interest of members shall include, but not be limited to, development, planning, construction contracting, public works, design professions, neighborhood interests, business interests, historic preservation, environmental organizations, and institutional properties. Members shall be appointed so that the Committee consists of one member from organizations representing each of the following groups, or if organizations do not exist, an individual advocate for the representative group will be appointed:

1. Frequent development review customers
2. Citywide neighborhood interests
3. Design professionals
4. Environmental conservation and green building
5. Historic preservation
6. Home builders
7. Home remodelers
8. Land use planning professions
9. Large developers
10. Large construction contractors
11. Low-income housing developers
12. Major facilities landowners
13. Minority construction contractors and development professionals
14. Neighborhood Coalition Land Use Committees
15. Small businesses
16. Planning and Sustainability Commission, as designated by the Planning and Sustainability Commission President, and serves as an ex officio member of the Committee.
17. Public works permit customers

- C. Appointments and Terms.** Appointment to the Development Review Advisory Committee shall be for a three-year term. If a position is vacated during a term, it shall be filled for the unexpired term. Members of the Development Review Advisory Committee shall serve no more than two, complete three-year terms.
- D. Meetings, Officers, and Subcommittees.**
- 1.** The Development Review Advisory Committee shall meet at least five times yearly and as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with adopted rules of procedure. Seven members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Development Review Advisory Committee and to conduct any other Committee responsibilities. The election of officers shall take place at the first meeting of each calendar year.
 - 2.** The officers of the Committee shall consist of a Chairperson and a Vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice chairperson shall act as chair when the chairperson is not available.
 - 3.** The Development Review Advisory Committee may divide its members into subcommittees which are authorized to act on behalf of the committee for an assigned purpose. Subcommittee actions require the affirmative vote of at least three members.
- E. Attendance.** Members of the Development Review Advisory Committee are expected to attend each meeting of the committee. The Commissioner-in-Charge may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.
- F. Compensation.** Development Review Advisory Committee members shall serve without compensation.

3.30.040 Establishment of Enforcement Priorities and Remedies.

(Amended by Ordinance Nos. 175327, 176955 and 183793, effective May 19, 2010.) In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A.** Adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Establish enforcement fees or penalties for non-compliance. Establish enforcement priorities based on the number of budgeted enforcement

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personnel, public safety and welfare factors, and any priorities established by City Council.

B. Gain compliance by:

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

C. Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:

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1. Initiating the notification procedures provided in Section 29.60.050.
2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
 - a. The property is the subject of a notice of violation by the Bureau of Development Services; and
 - b. A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
3. Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.
4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
6. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
7. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
8. Allowing exceptions as provided in Section 29.60.100.

3.30.050 Special Jurisdiction.

(Amended by Ordinance Nos. 176585, 176955 and 182456, effective December 24, 2008). The Bureau of Development Services shall have authority to enforce Section 14A.20.070, and Subsections 16.10.200 L., 16.20.120 H., and 16.20.130 I., 16.20.160 and Sections 16.20.170, 16.70.450 and 16.70.800. The Bureau shall have authority to issue parking citations and order the towing and storage and/or removal of such vehicles and

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objects. In addition, violations of Section 16.20.160 are also subject to the Bureau of Development Services enforcement remedies as described in Subsection 3.30.040 C.

3.30.060 Nuisance Abatement Contracts.

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

3.30.070 Inspections

- A.** Definitions. The terms used in this Section shall be defined as provided in this subsection, unless the context requires otherwise:
 - 1.** Building Regulations means any city code title listed in 3.30.010, or any other safety or health statute, ordinance, regulation, rule, standard or order the Director is authorized to enforce.
 - 2.** Property means real property and all improvements or structures on real property, from property line to property line.
- B.** Warrants. Whenever an inspection is necessary to enforce any of the provisions authorized by this Title, or whenever the Director has reasonable cause to believe that there exists in any building or upon any property any condition which makes such property substandard as defined in any building regulations, the Director may request any Circuit Court judge to issue an inspection warrant for the inspection or investigation of any building or upon any property as required or authorized by city code or by statute. The inspection warrant is an order authorizing a safety or health inspection or investigation to be conducted at a designated building or property.
- C.** Grounds for Issuance of Inspection Warrants; Affidavit.
 - 1.** Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the building or property to be inspected or investigated, and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing

that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

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

D. Procedure for Issuance of Inspection Warrant.

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

E. Execution of Inspection Warrants.

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

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reasonably believed to be in such condition. In such case a copy of the search warrant shall be conspicuously posted on the property.

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

3.30.080 Stop Work Orders.

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

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

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- D.** A stop work order is effective upon posting.
- E.** When an emergency condition exists, the Director may issue a stop work order orally. The Director will then issue a written notice under Section A, above, within 24 hours.

Chapter 3.32

BUREAU OF LICENSES

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

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Chapter 3.33

**BUREAU OF PLANNING
AND SUSTAINABILITY**

(Chapter added by Ordinance No. 182671,
effective May 15, 2009.)

- 3.33.010 Purpose.
- 3.33.030 Functions.
- 3.33.020 Organization.

3.33.010 Purpose.

The purpose of this Chapter is to describe the organization and functions of the Bureau of Planning and Sustainability.

3.33.020 Organization.

The Bureau is administered by the Commissioner in charge and led by the Director of Planning and Sustainability. The organizational structure of the Bureau shall be determined by the Director of the Bureau after consultation with the Commissioner in charge.

3.33.030 Functions.

(Amended by Ordinance No. 184046, effective September 10, 2010.) The Bureau of Planning and Sustainability is responsible for planning, implementing, and managing complex programs and projects related to sustainability, urban design, land use, and long range planning.

The Bureau of Planning and Sustainability:

- A. Works with the City Council, Planning and Sustainability Commission, and the community to define shared values and develop a cohesive vision for the future of Portland;
- B. Maintains, modifies, and updates a Comprehensive Plan to guide the development and redevelopment of the city;
- C. Ensures that City policies, implementation tools, and zoning designations are consistent with the Comprehensive Plan, the Metro Functional Plan, Statewide Planning Goals, and other requirements. Implementation tools include Title 33,

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Planning and Zoning, portions of other City Titles, and a range of programs and policies;

- D.** Maintains, modifies, and updates Title 33, Planning and Zoning, and the City Zoning Map;
- E.** Develops, modifies and updates city sustainability principles, climate protection strategies, and green building and other sustainability policies and programs including sustainable government, renewable energy, energy efficiency, sustainable industries, and sustainable food systems; and evaluates the implementation and effectiveness of these policies and programs;
- F.** Develops, modifies and updates economic, environmental, housing, historic preservation, and community development policies and programs; updates demographic data; advocates for and advances quality sustainable urban design; works to ensure natural resource enhancement; and supports thriving neighborhoods and business communities; and evaluates the implementation and effectiveness of these policies and programs;
- G.** Convenes meetings of the Planning and Development Directors to coordinate planning and development activities of the City of Portland;
- H.** Provides City input into and coordination with regional and statewide planning and development activities;
- I.** Administers the City's solid waste and recycling rules and programs;
- J.** Provides support for:
 - 1.** The activities of the Planning and Sustainability Commission;
 - 2.** The legislative activities of the Portland Historic Landmarks Commission and the Portland Design Commission.
- K.** Carries out other tasks and functions as required by the City Council or Commissioner in Charge.

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Chapter 3.34

**BUREAU OF PURCHASES AND
STORES**

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

Chapter 3.36

**BUREAU OF FACILITIES
MANAGEMENT**

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

**Chapter 3.38
PORTLAND HOUSING ADVISORY
COMMISSION (PHAC)**

(Chapter replaced by Ordinance No. 184329,
effective December 15, 2010.)

Sections:

- 3.38.010 PHAC Established.
- 3.38.020 PHAC Mission.
- 3.38.030 Duties.
- 3.38.040 Membership.
- 3.38.050 Staffing.
- 3.38.060 Consolidated Plan Consortium.
- 3.38.070 Cooperation.

3.38.010 PHAC Established.

Upon adoption of this ordinance by the City of Portland, the Portland Housing Advisory Commission (PHAC) is established. The PHAC is designated as the primary public forum for discussion of housing policy, strategy, and resources in the City of Portland.

3.38.020 PHAC Mission.

The mission of the PHAC is to advise the Director of the Portland Housing Bureau (PHB), the Housing Commissioner, and the Portland City Council on housing and homelessness policy, strategy, and resource issues, promote improvements within the Portland Housing Bureau and the larger housing system, highlight opportunities for influence between the City housing system and other systems, as well as provide a forum for public input on housing and homelessness issues.

3.38.030 Duties.

The PHAC is delegated to carry out the following functions:

- A. Housing Policy and Planning.
 - 1. Provide a sounding board on Portland housing policy issues.
 - 2. Promote improvements within PHB.
 - 3. Identify opportunities where PHB might influence the larger housing system to become more streamlined and to better align system resources, to support PHB's mission.
 - 4. Advise PHB on City priorities for affordable housing development.

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5. Monitor and periodically recommend updates to PHB's Strategic Plan.
 6. Monitor and annually recommend updates to the Consolidated Plan Priorities for allocation of federal housing and community development resources.
 7. Recommend annual production and performance goals to carry out PHB's Strategic Plan and the Consolidated Plan.
 8. Press PHB to implement its commitment to equity in all facets of its work.
- B. Budget Review and Recommendations.**
1. Function as the Budget Advisory Committee for the Portland Housing Bureau.
 2. Assist PHB to align its resources from all sources to its mission and priorities.
 3. Identify opportunities for PHB to influence other public agency budgets and proposed work programs in furtherance of its mission.
- C. Resource Development.** Assist PHB to identify and recommend ways to increase the resources available to maintain and expand the supply and availability of affordable housing and necessary support services through new initiatives and programs.
- D. Program Development and Evaluation.**
1. Advise PHB on the effectiveness of housing programs at meeting PHB's mission.
 2. Advise on strategies for investment of public resources in furtherance of the PHB's mission.
- E. Public-Private Partnerships.**
1. Advise PHB on strategies to improve access to public and private sources of financing for affordable housing initiatives. Sources of financing include banks, philanthropic institutions and other socially-motivated investors, the State Housing Trust Fund, Block Grant and entitlement funders, and bond issuing agencies.

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2. Foster housing production by identifying opportunities to streamline the regulatory process.
3. Actively encourage the support, personal commitment, and participation of highly respected community leaders in furthering the City's affordable housing agenda.

F. Community and Intergovernmental Relations.

1. Provide a forum for members of the community to provide comment about community needs and priorities.
2. Advise PHB on its legislative agenda to increase federal and state support for housing and supportive services.
3. Advise PHB on opportunities to coordinate regional housing policy with the Metropolitan Service District and other local governments.
4. Advise PHB on opportunities to coordinate policy development with local housing and social service groups.
5. Assist PHB to extend and deepen its community partnerships.
6. Assist PHB to integrate the perspectives of Urban Renewal Advisory Committees (URACs), and advise it on other ways it can engage the URACs to inform its broader agenda.
7. Periodically review PHB's broader public involvement strategy and implementation to make sure that community members and stakeholders have many opportunities to participate in PHB's work.
8. Advise PHB on its external communications strategy to make sure that it supports PHB's mission.
9. Periodically review PHB's information and referral strategy to make sure that it operates effectively and recommend changes.

3.38.040 Membership.

- A. The PHAC shall consist of at least twelve and no more than fifteen members.
- B. The City of Portland shall appoint all members.

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- C.** Membership appointment shall achieve a balanced citizen-based perspective embracing a high level of knowledge of and expertise in market-rate and rent-restricted housing development and finance, asset management, homeownership, and housing access and stabilization services.
- D.** Membership appointment shall take into account the income, racial, ethnic, cultural, and geographic diversity of the community
- E.** Members will be expected to transcend their individual interests and affiliations to focus on the big picture.
- F.** For the initial appointments to PHAC, the following terms will apply: six members shall be appointed for a term of two years; and six for a term of three years.
- G.** All subsequent appointments to the PHAC shall be for terms of two years.
- H.** Members appointed for one two-year term shall be eligible to renew for one additional two-year term.
- I.** Members shall serve without compensation. However, the City may authorize reimbursement of the reasonable expenses of the members for carrying out the work of the PHAC.
- J.** The PHAC shall adopt rules of procedure (bylaws) as necessary for the governance of its proceedings.

3.38.050 Staffing.

PHB staff shall be provided for the ongoing functions of the PHAC. The Bureau shall provide notice of PHAC meetings to liaison staff representing the other key implementing and policy agencies in the local housing delivery system.

3.38.060 Consolidated Plan Consortium.

The Portland Housing Bureau shall continue to lead the Portland Consortium that includes the City of Gresham and Multnomah County, for the purpose of applying for federal housing and community development entitlement funds, and funding for homeless programs and services. PHB shall also continue to lead the same Consortium in preparing the Analysis of Impediments to Fair Housing and its periodic updates. PHB shall continue to provide staffing for these efforts, according to funding agreements reached among the participating jurisdictions.

3.38.070 Cooperation.

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

Chapter 3.40

BUREAU OF GENERAL SERVICES

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

Chapter 3.44

BUREAU OF CIVIC AUDITORIUM

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

Chapter 3.46

BUREAU OF INSECT CONTROL

3.46.010 County to Perform Duties.

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

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Chapter 3.52

BUREAU OF COMPUTER SERVICES

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

Chapter 3.53

BUREAU OF RISK MANAGEMENT

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

Chapter 3.54

LOSS CONTROL AND PREVENTION

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

Sections:

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

3.54.010 Definitions.

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

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

3.54.020 OMF Risk Management Division Responsibility and Authority.

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

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

3.54.030 Bureau Responsibility and Authority.

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

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

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

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

- A.** In conjunction with bureau managers, develop and propose for approval by the City Council goals for each bureau or appropriate groups of bureaus for the frequency and severity of workers' compensation and liability losses.
- B.** Obtain from each bureau its proposed written loss control component;

- C.** Review each component to ensure that it is appropriate, adequate, thorough, and consistent with components developed by other bureaus;
- D.** Suggest revisions, if appropriate, and return the component to the bureau for consideration or revisions;
- E.** Upon final review of components, provide them to the OMF Risk Management Division for approval and implementation by bureaus.

Chapter 3.57

**INDUSTRIAL INJURY RETURN
TO WORK POLICY**

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

Chapter 3.58

VEHICLE LOSS CONTROL POLICY

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

Chapter 3.60

ZOO COMMISSION

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

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ADMINISTRATION

Chapter 3.62

BOXING COMMISSION

3.62.010 Certain City Officials to Render Certain Services.

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

Chapter 3.64

ART COMMISSION

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

Chapter 3.66

**CIVIC AUDITORIUM ADVISORY
COMMITTEE**

(Chapter repealed by Ordinance No. 160034,
effective August 13, 1987.)

Chapter 3.67

**PERFORMING ARTS ADVISORY
COMMITTEE**

(Chapter added by Ordinance No. 152285,
effective September 17, 1981.)

Sections:

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

3.67.010 Creation and Organization.

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

3.67.020 Procedure and Rules of Committee.

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

3.67.030 Duties.

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

TITLE 3 ADMINISTRATION

Chapter 3.68

FORMAL JAPANESE GARDEN COMMISSION

Sections:

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

3.68.010 Created.

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

3.68.020 Powers and Duties.

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

3.68.030 Meetings.

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

3.68.040 Officers.

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

3.68.050 Rules - Quorum.

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

3.68.060 Vacancy - Removal.

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

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Chapter 3.70

PITTOCK MANSION ADVISORY COMMISSION

Sections:

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

3.70.010 Created - Terms.

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

3.70.020 Powers and Duties.

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

3.70.030 Special Committees and Services.

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

3.70.040 Meetings.

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

3.70.050 Officers.

Officers of the Commission shall consist of a Chairman, Vice Chairman, Secretary and Treasurer, elected from its membership at the organizational meeting and at each annual

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meeting thereafter. All Commission officers shall serve until the annual meeting next following their election or thereafter until a successor is elected.

3.70.060 Rules - Quorum.

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

3.70.070 Vacancy.

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

Chapter 3.71

ENVIRONMENTAL COMMISSION

(Chapter added by Ordinance No. 164432;
repealed by Ordinance No. 167239,
effective December 29, 1993.)

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Chapter 3.72

COMMITTEE ON CLAIMS

Sections:

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

3.72.010 Created - Members - Meetings.

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

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

3.72.020 Presentation of Claims.

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

3.72.030 Consideration of Claims Not Covered by Insurance.

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

3.72.040 Claims Covered by Insurance.

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

Chapter 3.74

OATHS OF OFFICE

Sections:

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

3.74.010 Persons Required to Take Oath.

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

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

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

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

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

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

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

Auditor of the City
of Portland, Oregon

Deputy

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

3.74.030 Form of Oath for Other Officer or Employee.

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

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

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

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

Chapter 3.76

PUBLIC RECORDS

(Chapter replaced by Ordinance No. 182637,
effective May 1, 2009.)

Sections:

- 3.76.010 Definitions.
- 3.76.020 Purpose.
- 3.76.030 Archives and Records Management Program Creation and Administration.
- 3.76.040 Authority and Duties of the Archives and Records Management Program.
- 3.76.050 Duties of Elected Officials and the Managers of City Agencies.
- 3.76.060 Care of Records.
- 3.76.070 Destruction of Records.
- 3.76.080 Use of Copies.
- 3.76.090 Public Access to Records.

3.76.010 Definitions.

In this Chapter, unless the context otherwise requires:

- A. **“Agency”** means a department, bureau, office, commission, board, public corporation or other organizational unit created by the Council of the City of Portland.
- B. **“Record”** or **“City record”** means any recorded information, regardless of physical form or characteristic, prepared, owned, used or retained in connection with the transaction of official business and preserved or appropriate for preservation by an agency as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the City of Portland or because of the informational value in it. The term does not include library and museum material developed or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications. These records are public property, subject to Oregon Public Records Law and to the records management requirements established by this Code.

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3.76.020 Purpose.

The purpose of this Chapter is to provide for the orderly management and care of current City records and to preserve non-current City records of permanent value for administrative, legal, and research purposes.

3.76.030 Archives and Records Management Program Creation and Administration.

The City Auditor shall maintain a professional Archives and Records Management Program for the City, and shall be responsible for the maintenance of all City records. The City Auditor shall be the custodian for all permanent records for which an agency has transferred ownership to the Auditor and for all historical records.

3.76.040 Authority and Duties of the Archives and Records Management Program.

The Archives and Records Management Program shall:

- A.** Operate the program and the Archives and Records Center facility in accordance with currently accepted archives and records management professional standards;
- B.** Acquire, receive, appraise and secure records of permanent value from agencies of the City of Portland when those records are no longer necessary for conducting current business;
- C.** Acquire, receive, appraise, and secure all records for areas annexed by the City from a county or special district or from a defunct agency of the City of Portland;
- D.** Negotiate for the acquisition and return of City records which have been removed from its possession;
- E.** Secure transfer of records to the Archives when it has been determined that the records are stored under conditions that do not meet the standards established by Archives and Records Management;
- F.** Maintain inventories, indexes, catalogs, and other finding aids or guides to facilitate access to the City Archives;
- G.** Analyze, develop and provide written standards and procedures for the care and maintenance of City records, including those created and/or maintained in electronic format;
- H.** Establish minimum recordkeeping requirements for business systems or applications that maintain official City records;
- I.** Provide access, as defined by State law and City policies, to the records within Archives and Records Management's custodianship;

- J.** Establish procedures for City agencies regarding the identification, segregation, and protection of records vital to continuing operations to comply with the City's emergency preparedness policies;
- K.** Establish standards for City agencies with regard to the appropriate use of record media, accounting for cost, access and preservation;
- L.** Establish procedures for the preparation of records inventories and descriptions; develop records retention schedules for review by the City Auditor and City Attorney and which meet the requirements of Oregon Administrative Rules;
- M.** Establish procedures for the prompt and orderly disposition of City records for which the state archivist has granted authority to destroy because they no longer possess administrative, legal, or research value to warrant their retention;
- N.** Provide training to City agencies and employees on all aspects of records management.

3.76.050 Duties of Elected Officials and the Managers of City Agencies.

Each City elected official and agency manager shall:

- A.** Make and preserve records containing adequate documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency which are designed to furnish the information necessary to protect the legal and financial rights of the City and of persons directly affected by the agency's activities;
- B.** Ensure staff compliance with City records policies and procedures established by Archives and Records Management;
- C.** Work with Archives and Records Management to develop and review records retention schedules for records maintained by the agency;
- D.** Inform Archives and Records Management of any regulatory changes affecting record retention, maintenance or access requirements;
- E.** Notify Archives and Records Management of any program changes that may affect the management of City records, including but not limited to: new agency responsibilities; records that are no longer being created; changes to records maintenance practices;

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- F.** Follow established procedures to identify, segregate and protect records vital to the continuing operation of an agency in the event of natural or man-made disaster;
- G.** Ensure that at least one copy of each report, document, study, publication or consultant report prepared at City expense be deposited with the Archives;
- H.** Notify the Archives of records older than 25 years in the agency's possession; transfer control of original records upon notification from the Archives;
- I.** Establish safeguards against unauthorized or unlawful removal, loss or destruction of City records;
- J.** Ensure that City records are maintained in an manner that meets guidelines set by Archives and Records Management for security and environment;
- K.** Designate a management level employee to act as a liaison between the agency and Archives and Records Management on all matters relating to the archives and records management program.

3.76.060 Care of Records.

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

3.76.070 Destruction of Records.

City records covered by a records retention schedule shall be destroyed according to the parameters set forth in the retention schedule. In general, records shall not be retained beyond their prescribed retention.

3.76.080 Use of Copies.

- A.** A public officer performing duties under this Chapter is authorized to copy in any manner which produces a permanent, clear, accurate and durable reproduction of the original record. An original City record which is worn or damaged may be replaced by a reproduction made in accordance with this Chapter. Certification by the City Auditor, City Attorney, Archives and Records Management, or by the agency having custody of the record that the replacement is a true and correct copy of the original shall appear at the end of the reproduction. When original City records are reproduced and placed in conveniently accessible files and provisions are made for preserving and using them for the duration of their legally mandated retention, the originals from which they were made may be destroyed.
- B.** Reproduction or replacement of City records made under this Chapter are admissible in evidence as primary evidence of the original writing.

3.76.090 Public Access to Records.

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

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Chapter 3.77

OFFICE OF THE OMBUDSMAN

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

Sections:

3.77.010	Purpose.
3.77.020	Definitions.
3.77.030	Office of the Ombudsman.
3.77.040	Ombudsman Selection.
3.77.050	Qualifications and Prohibitions.
3.77.060	Reserved.
3.77.070	Removal.
3.77.080	Staff and delegation.
3.77.090	Reserved.
3.77.100	Office Facilities and Administration.
3.77.110	Powers and Duties.
3.77.120	Investigations of Complaints.
3.77.130	Communications with Agency.
3.77.140	Communications with Complainant.
3.77.150	Procedure after Investigation.
3.77.160	Informing Citizens.
3.77.170	Reports.
3.77.180	Reserved.
3.77.190	Duty to Cooperate.
3.77.200	Ombudsman Immunities.
3.77.210	Reprisals Prohibited.
3.77.220	Relationship to Other Laws.
3.77.230	Effective Date.

3.77.010 Purpose.

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

3.77.020 Definitions.

In this chapter:

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

3.77.030 Office of the Ombudsman.

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

3.77.040 Ombudsman Selection.

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

3.77.050 Qualifications and Prohibitions.

- A. The Ombudsman shall be a person of recognized judgment, objectivity and integrity who is well-equipped to analyze problems pertaining to City regulations,

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administration, and public policy, and shall have a working knowledge in local government commensurate to the powers and duties of the office. The Ombudsman shall be a registered voter of the United States, and shall hold a degree from an accredited college/university, or its equivalent in service to local government.

- B.** No person may serve as Ombudsman while engaged in any other occupation, business, or profession likely to detract from the full-time performance of his or her duties as Ombudsman or to result in a conflict of interest or an appearance of impropriety or partiality. All laws and requirements generally applicable to public employees are applicable to the Ombudsman.

3.77.060 Reserved.

3.77.070 Removal.

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

3.77.080 Staff and Delegation.

- A.** The Ombudsman may appoint a deputy who is accountable to the Ombudsman and other personnel necessary to carry out the provisions of this chapter, when in keeping within the adopted budget for the Ombudsman's Office.
- B.** The Ombudsman may delegate to his or her staff members any of his or her duties, unless otherwise specified in this chapter.
- C.** The deputy shall succeed to all duties and responsibilities of the Ombudsman, including those specified by ordinance, when he or she is serving as the acting Ombudsman.

3.77.090 Reserved.

3.77.100 Office Facilities and Administration.

- A.** The City shall provide suitable office facilities for the Ombudsman and staff in a location convenient for the public.
- B.** The Ombudsman shall annually recommend a budget proposal for submission to the City Auditor, who shall in turn include it in the Auditor's budget submission to the Mayor and City Council.

- C. The Ombudsman shall be located within the City Auditor's office, and be accountable to the City Auditor. The Ombudsman shall have sole discretion in choosing consultants to assist with investigations, and in hiring staff. All administrators shall retain the authority to deny any request which is otherwise contrary to ordinance or which exceeds the city council-adopted budget for the office.

3.77.110 Powers and Duties.

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

- A. To investigate, on complaint or on the Ombudsman's own initiative, any administrative act of an agency, without regard to the finality of the administrative act, if he or she reasonably believes that it is an appropriate subject for review;
- B. To undertake, participate in or cooperate with persons and agencies in such general studies, conferences, inquiries, meetings, or studies which might improve the functioning of agencies or lessen the risks that objectionable administrative acts will occur;
- C. To make such inquiries and obtain such reasonable assistance and information from any agency or person as the Ombudsman shall require for the discharge of the Ombudsman's duties; and he or she may without prior notice enter and inspect the premises of any agency. Agencies shall not restrict the Ombudsman's access to agency personnel;
- D. Notwithstanding any other provision of city law, to have access to and to examine and copy, without payment of a fee, any agency records, including records which are confidential by city law, subject to any applicable state or federal laws. Except, the Ombudsman shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney clients. The Ombudsman shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure;
- E. To request any person or agency to give sworn testimony or to produce documentary or other evidence that is reasonably relevant to the matters under investigation;
- F. To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request;

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- G.** To take appropriate measures to enforce the provisions of this chapter, including issuing reports, submitting recommendations, or seeking Council authorization for legal recourse if necessary to carry out the duties of the Ombudsman Office;
- H.** To adopt, promulgate, amend and rescind rules and regulations required for the discharge of the Ombudsman's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations. However, the Ombudsman may not levy any fees for the submission or investigation of complaints;
- I.** To insure that a budget for the Office of the Ombudsman is well prepared and administered.

3.77.120 Investigations of Complaints.

- A.** The Ombudsman shall receive complaints from any source concerning any administrative act. He or she may conduct a suitable investigation of a complaint that is an appropriate subject for investigation. An appropriate subject for investigation by the Ombudsman includes any administrative act that the Ombudsman believes might be:
 - 1.** contrary to, law, regulation or agency practice;
 - 2.** unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
 - 3.** based on mistaken facts or irrelevant considerations;
 - 4.** unclear or not adequately explained;
 - 5.** performed in an inefficient or discourteous manner;
 - 6.** otherwise erroneous or objectionable.
- B.** The Ombudsman, at the Ombudsman's discretion, may decide not to investigate a complaint because:
 - 1.** the complainant could reasonably be expected to use, or is using, another remedy or channel, or tort claim, for the grievance stated in the complaint;
 - 2.** the complaint relates to a matter that is outside the jurisdiction of the Ombudsman;
 - 3.** the complaint has been too long delayed to justify present examination;

4. the complainant does not have a sufficient personal interest in, or is not personally aggrieved by, the subject matter of the complaint;
 5. the complaint is trivial, frivolous, vexatious or not made in good faith;
 6. the resources of the Ombudsman's Office are insufficient for adequate investigation;
 7. other complaints are more worthy of attention.
- C. The Ombudsman shall not investigate matters currently in litigation; covered by collective bargaining agreement grievance procedures; or, employee or applicant discrimination complaints.
- D. The Ombudsman's declining to investigate a complaint shall not bar the Ombudsman from proceeding on his or her own initiative to investigate an administrative act whether or not included in the complaint.
- E. The Ombudsman shall protect the confidentiality of complainants or witnesses coming before him or her consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out his or her duties or the disclosure of records is directed by the District Attorney. (See Subsection 3.77.110 F.)
- F. The Ombudsman shall have the authority to pursue administrative review of responses to complaints through higher authorities within the City.

3.77.130 Communications with Agency.

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

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3.77.140 Communications with Complainant.

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

3.77.150 Procedure after Investigation.

- A.** If, after investigation, the Ombudsman is of the opinion that an agency should:

- 1.** consider the matter further,
 - 2.** modify or cancel an act,
 - 3.** alter a regulation, ruling, practice, policy or procedure;
 - 4.** explain more fully the act in question,
 - 5.** rectify an omission, or take any other action,

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

- B.** After a reasonable period of time has elapsed, the Ombudsman may issue his or her final conclusions or recommendations to the Auditor, the Mayor and City Commissioners, a grand jury, the public, or any other appropriate authority. The Ombudsman shall include any brief statement the agency may provide if an opportunity to reply is required by this Chapter.
- C.** If the Ombudsman believes that an action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by City Council action, the Ombudsman shall notify the City Council and the agency of a desirable statutory change.

- D.** If the Ombudsman believes that any agency official or employee has acted in a manner warranting criminal or disciplinary proceedings, the Ombudsman shall refer the matter to the appropriate authorities without notice to that person.

3.77.160 Informing Citizens.

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

3.77.170 Reports.

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

3.77.180 Reserved.

3.77.190 Duty to Cooperate.

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

3.77.200 Ombudsman Immunities.

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

3.77.210 Reprisals Prohibited.

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

3.77.220 Relationship to Other Laws

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

3.77.230 Effective Date

This Act shall take effect on July 1, 2001.

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Chapter 3.78

**ACQUISITION OF COUNTY PROPERTY
FOR PARK PURPOSES**

Sections:

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

3.78.010 Authorization for Payment.

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

3.78.020 Title Reports.

The City Attorney hereby is authorized to obtain a policy of title insurance covering any particular parcel or parcels of property purchased in the past or in the future from Multnomah County for park and playground purposes. The expense of such title reports shall be chargeable to the public recreational areas fund.

3.78.030 Clearing of Title.

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

3.78.040 Retaining Property with Cloud on Title.

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

Chapter 3.80

SPECIAL PERMITS

Sections:

- 3.80.010 Operations to Cease Upon Expiration of Permit.
- 3.80.020 Use of Park Property for Private Gardening Purposes.

3.80.010 Operations to Cease Upon Expiration of Permit.

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

3.80.020 Use of Park Property for Private Gardening Purposes.

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

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Chapter 3.82

OFFICER AND EMPLOYEE BONDS

Sections:

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

3.82.010 Exceptions.

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

3.82.020 Bond of the City Treasurer.

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

3.82.030 City Auditor's Bond.

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

Chapter 3.84

**CITY OWNED MOTOR VEHICLE
ACCIDENT REPORTS**

Sections:

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

3.84.010 Filing of Accident Report.

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

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

3.84.020 Form of Report.

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

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

3.84.030 Repair Shop Report.

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

3.84.040 Repair.

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

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

3.84.050 Billing of Charges.

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

Chapter 3.86

GOLF ADVISORY COMMITTEE

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

Sections:

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

3.86.010 Created - Organization.

(Amended by Ordinance Nos. 169770, 178253 and 178935, effective December 8, 2004.)
There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Parks to be known as the Golf Advisory Committee, consisting of ten voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years. The Commissioner In Charge or his/her representative shall be an ex officio member of the Committee.

3.86.020 Procedure and Rules.

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

3.86.030 Duties.

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

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Chapter 3.88

INVESTMENT ADVISORY COMMITTEE

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

Sections:

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

3.88.010 Created - Organization.

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

3.88.020 Procedure and Rules.

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

3.88.030 Duties.

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

Chapter 3.90

OFFICE OF MANAGEMENT SERVICES

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

Chapter 3.92

BUREAU OF HUMAN RESOURCES

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

Chapter 3.94

**OFFICE OF PLANNING AND
DEVELOPMENT**

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

Chapter 3.95

**BUREAU OF ECONOMIC
DEVELOPMENT**

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

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Chapter 3.96

**OFFICE OF NEIGHBORHOOD
INVOLVEMENT**

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

Sections:

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

3.96.010 Purpose.

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

3.96.020 Definitions.

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

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

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

3.96.030 Neighborhood Associations.

- A. Minimum Standards for Neighborhood Associations.** To receive and maintain formal recognition, Neighborhood Associations shall meet the Standards for neighborhood public involvement.
- B. Functions of Neighborhood Associations.** A Neighborhood Association may engage in, but is not limited to the following:
- 1.** Make recommendation(s) concerning a particular action, policy or other matter to any City agency on any topic affecting the livability, safety and economic vitality of the Neighborhood, including but not limited to land use, housing, community facilities, human resources, social and

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

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

C. Responsibilities of Neighborhood Associations.

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

D. Benefits to Neighborhood Associations.

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

3.96.040 Functions of District Coalitions.

A District Coalition shall:

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

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

3.96.050 Responsibility of City Agencies.

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

3.96.060 Responsibilities of the Office of Neighborhood Involvement.

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

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

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

Chapter 3.98

TOWING BOARD OF REVIEW

(Chapter added by Ordinance No. 138941,
effective October 10, 1974.)

Sections:

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

3.98.010 Created - Organization.

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

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

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

3.98.020 Procedure and Rules.

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

3.98.030 Staff.

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

3.98.040 Contracts - Rates.

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

3.98.050 Eligibility.

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

3.98.060 Powers of Board.

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

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

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

3.98.080 Appeals.

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

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

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Chapter 3.99

FAIR WAGE POLICIES

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

Sections:

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

3.99.005 Policy.

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

3.99.010 Covered Services.

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

3.99.015 Compliance.

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

3.99.020 Adjustments

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

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

Chapter 3.100

EQUAL OPPORTUNITY

(Chapter replaced by Ordinance No. 144724,
effective November 10, 1977.)

Sections:

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

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

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

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

3.100.010 Affirmative Action Program.

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

3.100.011 Definitions.

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

3.100.012 Policy.

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

3.100.013 Objectives.

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

3.100.014 Management Commitment.

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

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

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3.100.036 Compliance by Contractors.

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

3.100.037 Denial or Revocation of Certification.

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

3.100.038 Compatibility with Other Rules.

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

3.100.039 State of Emergency.

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

3.100.040 Exemptions.

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

3.100.041 Contracts with City.

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

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

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

3.100.042 Certification of Contractors.

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

3.100.043 Information Required.

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

3.100.044 Compliance Review.

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

3.100.045 Denial, Suspension, Revocation

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

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

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

3.100.050 Nondiscrimination in Contracting.

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

3.100.051 Policy regarding Benefits.

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

3.100.052 Definitions.

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

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

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

3.100.053 Discrimination in the provision of benefits prohibited.

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

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

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

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

3.100.054 Limitations.

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

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

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

3.100.055 Powers and duties of the Director.

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

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

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

3.100.056 Severability of Provisions.

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

3.100.060 Grant Equal Opportunity Compliance Program.

3.100.061 Definitions.

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

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

3.100.062 Purpose.

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

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

3.100.063 Responsibility.

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

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

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

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

B. Contract and Grants Compliance Division shall serve as the point of contact for all communications relating to grant equal opportunity compliance, and shall review all grants as follows:

- 1.** Pre-Application. Before any grant application is submitted to the grantor agency, the equal opportunity provisions shall be reviewed to determine compliance requirements. A report of such review shall be submitted to the Federal Grants Coordinator.
- 2.** Post Award. Immediately after the award of any grant, the Contract and Grants Compliance Division shall advise the grantee bureau or office of applicable requirements and provide guidelines, instructions, forms, and assistance, as required to assist the bureau or office to implement compliance.

C. Grantee Bureaus or Offices. Shall be fully responsible for compliance with all equal opportunity requirements imposed by applicable grants. In the discharge of such responsibility, grantee bureaus or offices shall cooperate fully with the Contract and Grants Compliance Division including, but not limited to, accumulation of applicable data, preparation of suitable records, and submission of such records and forms as may be required.

3.100.064 Compliance Monitoring.

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

3.100.065 Rules and Regulations.

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

3.100.080 Minority/Female Purchasing Program.

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

3.100.081 Definitions.

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

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

3.100.082 Purpose.

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

3.100.083 Liaison Officer.

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

3.100.084 Minority/Female Business Enterprise List.

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

3.100.085 Advertising.

(Amended by Ordinance Nos. 150738 and 155018, effective Aug. 25, 1983.) The Purchasing Agent shall advertise periodically in local publications (including the Daily Journal of Commerce, female and minority publications) that the City encourages bidding

by MBEs and FBEs and that the City will assist such firms to understand and participate in formal bidding process.

3.100.086 Minority/Female Purchasing Associations.

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

3.100.089 Rules and Regulations.

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

3.100.090 Metropolitan Human Relations Commission Review and Evaluation.

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

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Chapter 3.101

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

(Chapter added by Ordinance No. 157768,
effective August 29, 1985.)

Sections:

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

3.101.010 Definitions.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)
As used in this Chapter:

- A. “Low income”** means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.
- B. “Eligible property”** means land and improvements thereon:
 - 1.** Which are either single or multi-family residential units intended for the exclusive occupancy by low-income persons during the tax year for which approval of the application has been granted or properties which are not residential units but which will become residential units through rehabilitation improvements or new construction to be occupied by low-income persons;
 - 2.** Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of Subsections 3.101.030 B. 1.-2. by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501

(c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.540 to 307.548; and

3. Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.

3.101.020 Eligible Organizations.

(Amended by Ordinance No. 185043, effective December 7, 2011.) “Eligible organizations” means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by Section 3.101.010 in this Chapter. No other types of non-profit or for-profit organizations are eligible.

3.101.030 Eligible Property.

(Amended by Ordinance Nos. 167356 and 185043, effective December 7, 2011.) As used in this Chapter:

- A. “Eligible property” as defined in Subsections 3.101.010 B. 1.-3. which meets all of the following criteria, pursuant to ORS 307.541, and other conditions of this Chapter shall be exempt from taxation:
 1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.541(a);
 2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to the State of Oregon;
 3. The property is occupied by low-income persons as defined by ORS 307.540(2) or held for future development for low income housing pursuant to ORS 307.541(1)(c)(B).
 4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.

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- B.** For the purposes of this Chapter, pursuant to ORS 307.541(2), a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
- 1.** The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 - 2.** The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
- C.** Pursuant to ORS 307.541(3), a partnership shall be treated the same as a corporation if the corporation is a general partner of the partnership and responsible for the day-to-day operation of the property that is the subject of the exemption.

3.101.040 Application Procedure.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)

- A.** To qualify for the exemption the corporation shall file an application for exemption with the Portland Housing Bureau acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before April 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after April 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. The application shall include the following information:
- 1.** The applicant's name, address, and telephone number;
 - 2.** The assessor's property account number for each site;
 - 3.** The number of units and the exempted amount of each property being applied for under this Chapter;
 - 4.** A description of the property for which the exemption is requested;
 - 5.** A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 - 6.** A description of how the tax exemption will benefit project residents; and
 - 7.** A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;

8. A certification of income levels of low-income occupants;
 9. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984;
 10. A description of the development of the property if the property is being held for future low income housing development; and
 11. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter at the time the application is submitted.
- B.** The application shall include the following statements:
1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
 2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the April 1 application deadline;
 3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
 4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.
- C.** The applicant shall verify the information in the application, in accordance with Subsections 3.101.040 B. 1. through 3. above, by oath or affirmation.
- D.** Applicants for an exemption under this Chapter shall pay fees for an initial application and any renewals as set by the Portland Housing Bureau. The Portland Housing Bureau shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Portland Housing Bureau or the County Assessor in processing the application. The Portland Housing Bureau shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred. If the applicant is denied, the City

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shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant.

3.101.050 Review of Application.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)

- A.** Within 30 days after the April 1 deadline for the application and payment of the application fee, the Portland Housing Bureau shall approve or deny the application. The application shall be approved if the Portland Housing Bureau finds that the property is “eligible property” within the meaning of the paragraphs 1. through 3. of Subsection B. of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter.
- B.** If the application is approved, the Portland Housing Bureau shall send written notice of approval to the applicant.
- C.** If the application is denied, the Portland Housing Bureau shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Portland Housing Bureau shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- D.** Upon denial by the Portland Housing Bureau, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.
- E.** The application shall be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

(Amended by Ordinance Nos. 167356, 178286 and 185043, effective December 7, 2011.)

- A.** Applicants for property tax exemption must apply each year no later than April 1 in order to be qualified for property tax exemption for the upcoming tax year.
- B.** The annual application renewal fee shall be set by the Portland Housing Bureau.

3.101.070 Assessment Exemption.

(Amended by Ordinance Nos. 167356, 178286 and 185043, effective December 7, 2011.)

- A.** Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning July 1 of the tax year immediately following approval of the exemption, or when, pursuant to ORS 307.330, the property would have gone on

the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.

- B.** Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, 2027.
- C.** The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)

- A.** If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the Portland Housing Bureau finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the Portland Housing Bureau shall give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and require the owner to appear before City Council to show cause at a specified time, not less than 20 days after mailing of the notice, why the exemption should not be terminated.
- B.** If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the Portland Housing Bureau shall notify every known lender and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide adequate assurance that all noncompliance shall be remedied.
- C.** If the owner fails to appear and show cause why the exemption should not be terminated and the lender fails to cure or give adequate assurance of the cure of any noncompliance, City Council shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution shall be filed with the County Assessor and a copy sent to the owner at the owner's last-known address and to the lender at the last-known address of the lender, within 10 days after its adoption.

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- D.** Upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.216 to 311.232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by City Council or by a court, in accordance with the findings of City Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

(Amended by Ordinance Nos. 167356, 182671 and 185043, effective December 7, 2011.)
The Portland Housing Bureau shall establish procedures and prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the April 1 filing deadline imposed by ORS 307.545.

Chapter 3.102

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

(Chapter replaced by Ordinance No. 185477,
effective August 1, 2012.)

Sections:

- 3.102.010 Purpose.
- 3.102.020 Definitions.
- 3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.
- 3.102.040 Exemption Requirements.
- 3.102.050 Application Review and Approval.
- 3.102.060 Compliance.
- 3.102.070 Designation of Homebuyer Opportunity Areas.
- 3.102.080 Termination of the Exemption.
- 3.102.090 Implementation.

3.102.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.651 through 307.687, and administers a property tax exemption program for new construction of single-unit housing authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.654, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.102.020 Definitions.

As used in this Chapter:

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- A.** “**Administrative Rules**” means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes and procedures.
- B.** “**Applicant**” means the individual who or entity which owns the property and is submitting an application for the tax exemption program and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any compliance requirements under this Chapter.
- C.** “**Homebuyer opportunity area**” means those areas of the City of Portland designated by the Portland Housing Bureau that meet the requirements set forth in ORS 307.651 to 307.657 for a "distressed area" and Section 3.102.070 of this Code.
- D.** “**Single-unit housing**” has the meaning set forth in ORS 307.651(4).

3.102.030 Benefit of the Exemption; Annual Maximum Number of Exemptions.

- A.** Single-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.664 and the Administrative Rules.
- B.** However, the Portland Housing Bureau may, upon action by City Council on an annual basis, determine a limit on the number of applications accepted under this Chapter.

3.102.040 Exemption Requirements.

In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the proposed construction will meet the following requirements and public benefits upon completion of construction:

- A.** Property
 - 1.** Single-unit housing must be located within a homebuyer opportunity area;
 - 2.** Each qualified dwelling unit in the single-unit housing must have a market value at the time of completion of no more than the amount determined annually by Portland Housing Bureau according to ORS 307.651(3) and 307.661;
 - 3.** Construction of the single-unit housing must be completed according to ORS 307.681(1), except as provided in ORS 307.374;

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4. Each qualified dwelling unit must sell to the initial homebuyer within two years of activation of the exemption;
5. Each qualified dwelling unit must have at least three bedrooms unless built within an approved transit-oriented area as determined by the Portland Bureau of Planning and Sustainability and included on the map defining homebuyer opportunity areas, in which case two bedroom homes are allowed; and
6. The single-unit housing must comply with all other requirements under the Code of the City of Portland.

B. Affordability

1. Each dwelling unit of the single-unit housing must be sold to a household with an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, which income may be adjusted upward for households with more than four persons.
2. For the purposes of this program, household income is the annual gross income of the titleholder who will occupy the dwelling unit.

C. Owner-Occupancy

1. Once sold to the initial buyer, the dwelling unit shall remain owner-occupied as the principal residence of the titleholder receiving the tax exemption during the tax exemption period;
2. Hardship exception to the owner-occupancy requirement may be granted by the Portland Housing Bureau in accordance with its policies. Such hardship exceptions may include, but are not limited to, the following circumstances:
 - a. Active military duty outside of the area;
 - b. Temporary relocation to care for an ill or dying family member; or
 - c. Temporary relocation caused by an employer; and
3. The single-unit housing may not be rented at any time during the exemption period.

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D. Equity

- 1.** Applicant must acknowledge familiarity with Portland Housing Bureau's Minority, Women, and Emerging Small Businesses (MWESB) guidelines and contracting opportunity goals, and report on past contracting relationships.
- 2.** Applicant must acknowledge awareness and understanding of Portland Housing Bureau's Guiding Principles on Equity and Social Justice and Strategic Priority of Helping Portlanders from Communities of Color buy a home and agree to partner with Portland Housing Bureau to assure that communities of color are aware of properties for sale with exemptions.

E. Green Building. The new construction must be built to meet healthy and resource efficient environmental building standards.

F. Application Fee. The applicant must pay an application fee determined by the Portland Housing Bureau as described in ORS 307.674 (5).

3.102.050 Application Review and Approval.

- A.** The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.667 through 307.674.
- B.** Applicants must apply for the tax exemption prior to issuance of the building permit for the single-unit housing.
- C.** If construction of the single-unit housing is not completed within the timeframe described in ORS 307.674, Portland Housing Bureau may extend the deadline as consistent with ORS 307.677.
- D.** The issuance of final building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the design standards as described in ORS 307.651(4)(a)
- E.** Any exemption under this Chapter must be approved by City Council by resolution, and Portland Housing Bureau will deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.674.

3.102.060 Compliance.

- A.** Upon approval, applicants must execute a document to be recorded on title of the single-unit housing requiring Portland Housing Bureau verification of homebuyer

affordability and owner-occupancy qualification prior to the sale of each dwelling unit to an initial homebuyer.

- B.** Single-unit housing which sells to homebuyers who do not meet the affordability or owner occupancy qualifications, will have the tax exemption removed as of the next tax year.
- C.** Single-unit housing not meeting the exemption requirements by selling over the established sale price at initial sale will have the tax exemption terminated according to Section 3.102.080 and require the owner to repay any exempted taxes consistent with ORS 307.687.

3.102.070 Designation of Homebuyer Opportunity Areas.

- A.** The Portland Housing Bureau shall be responsible for designating homebuyer opportunity areas. The designation of such areas shall occur in the form of a public hearing conducted before the Portland Bureau of Planning and Sustainability's Planning and Sustainability Commission and approval through a resolution with City Council. Portland Housing Bureau shall review the homebuyer opportunity areas for possible amendment at least every two years.
- B.** The criteria for designating homebuyer opportunity areas shall include consideration of the following factors:
 - 1.** A distressed area as described in ORS 307.651(1);
 - 2.** The incentive of limited property tax exemption in a homebuyer opportunity area will help to carry out adopted policies, or area-wide or district plans of the City related to housing or neighborhood revitalization; and
 - 3.** The probability of revitalization in the area without the assistance of the exemption.

3.102.080 Termination of the Exemption.

If the Portland Housing Bureau determines that the single-unit housing fails to meet any of the provisions of ORS 307.651 to 307.687 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.681 through 307.687.

3.102.090 Implementation.

Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

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Chapter 3.103

PROPERTY TAX EXEMPTION FOR MULTIPLE-UNIT HOUSING DEVELOPMENT

(Chapter replaced by Ordinance No. 185477,
effective August 1, 2012.)

Sections:

- 3.103.010 Purpose.
- 3.103.020 Definitions.
- 3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.
- 3.103.040 Minimum Threshold Requirements.
- 3.103.050 Application Review and Scoring of Public Benefits.
- 3.103.060 Application Approval.
- 3.103.070 Rental Project Rate of Return.
- 3.103.080 For-Sale Unit Compliance.
- 3.103.090 Extension of the Exemption for Low Income Housing Projects.
- 3.103.100 Termination of the Exemption.
- 3.103.110 Implementation.

3.103.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.103.020 Definitions.

As used in this Chapter:

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- A. “Accrued Payment Liability”** means the amount determined by the Portland Housing Bureau that must be paid to Multnomah County if a rental project’s rate of return exceeds the maximum rate of return allowed under this program.
- B. “Administrative Rules”** means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes, and procedures.
- C. “Applicant”** means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.
- D. “Extended Use Agreement”** means a recorded agreement between the owner and the Portland Housing Bureau stating the approval and compliance criteria of a project’s tax exemption.
- E. “Multiple-unit housing”** has the meaning set forth in ORS 307.603(5).
- F. “Owner”** means the individual or entity holding title to the exempt project and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any extended use agreement and any compliance requirements under this Chapter.
- G. “Project”** means property on which any multiple-unit housing is located, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located upon the property.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

- A.** Multiple-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612 and the Administrative Rules.
- B.** However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved annually by Council.

3.103.040 Minimum Threshold Requirements.

In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the project meets the following minimum threshold requirements:

- A.** Financial need for the exemption

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1. Rental projects

- a.** The project would not otherwise be financially feasible without the benefit provided by the property tax exemption.
- b.** The applicant must submit proof that the anticipated internal rate of return for the project for the period of the exemption will not exceed 10 percent.

2. For-sale projects

- a.** Units receiving tax exemption will be sold to buyers meeting the affordability requirements contained in this Section.

B. Property eligibility

- 1.** Projects must be located within identified Designated Plan Areas/Metro 2040 Centers, within a quarter mile radius of Max Station Areas, or within a quarter mile from either Metro 2040 Corridors with Frequent Transit Service or Metro 2040 Main Streets with Transit Service within the City of Portland.
- 2.** Projects must conform to City of Portland's zoning and density requirements.
- 3.** Applications for tax exemption must be submitted and approved prior to application for the project's building permit.

C. Affordability

- 1.** For rental projects, during the term of the exemption, a minimum of 20 percent of the number of units must be affordable to households earning 60 percent or less of the area median family income, with possible allowance to have units affordable to households earning 80 percent or less of the area median family income based on the market for similar units in the same geographic area. The units meeting the affordability requirements must match the unit mix in the project as a whole in terms of number of bedrooms.
- 2.** For projects containing for-sale units, those units receiving the exemption must not exceed the maximum price established under City Code Section 3.102.040 at initial sale and must sell to an initial homebuyer who income qualifies and occupies the unit as established under City Code Section

3.102.040. During the term of the exemption, the unit must be occupied by a homebuyer as established under City Code Section 3.102.040.

D. Equity

1. Applicants must provide a plan to meet Portland Housing Bureau's business equity goals for participation of Minority, Women, and Emerging Small Businesses (MWESB) in professional services and construction contracting and City workforce training and hiring goals.
2. Applicants must describe their efforts to engage community stakeholders and integrate feedback in the project concept plan, including but not limited to: neighborhood impacts, plan for commercial tenants, the use of gathering and commercial space in the project, and outreach and marketing of residential units to target markets.

E. Green Building. The project must be built to meet healthy and energy efficient environmental building standards.

3.103.050 Application Review and Scoring of Public Benefits.

- A.** The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.
- B.** Applications which satisfy the requirements of Section 3.103.040 will be scored as part of a competitive process. Applicants must demonstrate additional public benefits beyond the threshold requirements in their applications. Additional benefits may include but are not limited to the following:
1. Affordability in addition to threshold requirements described in Section 3.103.040 for rental projects or units available for sale below prices for comparable properties in the area;
 2. Applicant's demonstration in its MWESB and community engagement plans of how the project will help Portland Housing Bureau achieve the vision contained in Portland Housing Bureau's Guiding Principles on Equity and Social Justice;
 3. A portion of or all units fully "accessible" to persons with special needs and of established accessible design features at both unit and site level;
 4. Family sized units in areas lacking housing units with two or more bedrooms, with appropriate family friendly amenities;

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5. Access to grocery stores, schools, day care, etc.;
6. Quality gathering space available to the community at large; and
7. A portion of units reserved for and an established partnership with an agency to provide services to vulnerable populations, including but not limited to youth who have transitioned or are transitioning out of foster care.

3.103.060 Application Approval.

- A. Portland Housing Bureau shall select the applications which meet the minimum threshold requirements (see Section 3.103.40) and provide the most public benefit to the City (see Section 3.103.50). The Portland Housing Bureau Housing Investment Committee shall review the selected applications and determine which should proceed towards approval. Applicants with selected applications shall pay an application fee.
- B. Portland Housing Bureau shall present the selected applications to the Portland Housing Advisory Commission at a public hearing, for which notice will be given and public testimony will be heard.
- C. Portland Housing Bureau shall take applications to City Council for approval in the form of an ordinance and deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.
- D. If construction of an approved project is not completed or an application for exemption is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

3.103.070 Rental Project Rate of Return.

- A. The owner of a rental project approved for exemption will be required to sign an extended use agreement (“EUA”) to be recorded on the title to the property.
- B. During the exemption period, the owner must submit project financial information annually to the Portland Housing Bureau.
- C. Portland Housing Bureau will prepare an annual analysis of the project’s financial data including a to-date calculation of the rate of return for the project.

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- D.** Portland Housing Bureau will advise the owner in writing whether the projected rate of return will exceed 10 percent for the entire exemption period and may result in an Accrued Payment Liability (“APL”).
- E.** If Portland Housing Bureau determines that the number and unit mix of affordable units is less than the approved percentage or does not match the unit mix of the project, the next available units must be rented to households meeting the income requirements and the project must be brought into compliance before the next reporting period.
- F.** At the end of the final year of the exemption, Portland Housing Bureau will calculate the rate of return for the project during the exemption.
 - 1.** If the rate of return does not exceed 10 percent, then the EUA terminates at the end of exemption.
 - 2.** If the rate of return exceeds 10 percent, then Portland Housing Bureau sends a written notice to the last known address of the owner requiring the owner to elect one of the following:
 - a.** The EUA may remain in full force and effect for an additional 5 years after the end of the tax exemption, extending the affordability requirements approved for the exemption; provided that the number of units subject to the rent restrictions as approved is the same number necessary to reduce the net present value, using a 10 percent annual discount rate of the project’s projected market-rate (unrestricted) annual cash flows by an amount equal to the APL; or
 - b.** The owner pays an APL in an amount equal to the lesser of either:
 - (1)** The net present value using a 10 percent annual discount rate of the difference between the project’s actual annual cash flows during the exemption and the proforma projected cash flows for the project that would provide a 10 percent rate of return during the exemption; or
 - (2)** The maximum amount of the property taxes that would have been assessed if no exemption had been granted.

3.103.080 For-Sale Unit Compliance.

- A.** Approved applicants must execute a document to be recorded on title of the project requiring Portland Housing Bureau verification of homebuyer

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affordability and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer.

- B.** For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications at initial sale will have the tax exemption removed as of the next tax year.
- C.** For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

3.103.090 Extension of the Exemption for Low Income Housing Projects.

Projects subject to a low income housing assistance contract may be eligible for extension pursuant to ORS 307.612.

3.103.100 Termination of the Exemption.

If the Portland Housing Bureau determines that the project fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

3.103.110 Implementation.

Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

Chapter 3.104

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

(Chapter repealed by Ordinance No. 185477,
effective August 1, 2012.)

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Chapter 3.105

BULL RUN ADVISORY COMMITTEE

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

Chapter 3.106

**EXPOSITION-RECREATION
COMMISSION**

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

Sections:

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

3.106.010 Commission Action.

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

3.106.020 Filing Copies of Resolutions with City Auditor.

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

3.106.030 Council Review.

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

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

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

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

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

3.106.050 Council Initiation of Exposition - Recreation Commission Action.

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

3.106.060 Amendment, Repeal or Alterations of Resolutions by Council.

- A.** Contracts and agreements entered into by the Exposition - Recreation Commission or on behalf of the Commission by employees or agents, within the scope of their authority, shall be binding and effective from the times designated in sections 3.106.030 or 3.106.040, whichever is applicable.
- B.** The Council may, by regularly adopted ordinance, repeal, amend or alter any resolution adopted by the Exposition - Recreation Commission. Any such repeal, amendment or alteration may be made retroactive or prospective in effect but

shall not be construed to invalidate any contract or agreements made in accordance with Subsection A of this Section.

3.106.070 Special Services Personnel as Special Police.
(Repealed by Ordinance No. 185569, effective September 28, 2012.)

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Chapter 3.107

**WATER QUALITY ADVISORY
COMMITTEE**

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

Sections:

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

3.107.010 Created - Appointment.

(Amended by Ordinance No. 168939, effective June 14, 1995.) There hereby is created the Water Quality Advisory Committee. The Committee shall consist of nine members, appointed by the Commissioner In Charge of the Bureau of Water Works and confirmed by the Council. Appointments shall be for terms of 3 years except that 4 of the initial appointments shall be for terms of 2 years. When a vacancy occurs, the Commissioner In Charge shall appoint and the Council shall confirm a member to fill a new 3-year term. The Commissioner In Charge of the Bureau of Water Works may remove a member from the Committee at any time, subject to approval by the Council. The Commissioner In Charge of the Bureau of Water Works shall appoint members to the Committee with expertise or association in areas such as water quality, water treatment, public health policy, the environmental community, civic and business organizations, major industrial or commercial users, neighborhood associations and the public at large of which at least 3 members shall have relevant technical expertise. Committee members may serve a maximum of two 3-year terms, with the 4 appointees serving the initial terms of 2 years to serve a total maximum of 5 years. Within the maximum service limit of 6 years the Council may extend, for a period of less than 3 years, the terms of committee members who were appointed to serve or who have served the balance of a retiring committee member's term. All members shall serve without compensation from the City.

3.107.020 Duties.

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

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

3.107.030 Meetings.

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

3.107.040 Chairperson.

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

3.107.050 Rules - Quorum.

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

3.107.060 Staff.

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

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Chapter 3.110

**BUREAU OF HYDROELECTRIC
POWER**

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

Sections:

- 3.110.010 Creation and Function.
- 3.110.020 Jurisdiction.

3.110.010 Creation and Function.

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

3.110.020 Jurisdiction.

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

Chapter 3.111

**OFFICE OF
SUSTAINABLE DEVELOPMENT**

(Chapter repealed by Ordinance No. 182671,
effective May 15, 2009.)

Chapter 3.112

**SUSTAINABLE DEVELOPMENT
COMMISSION**

(Chapter repealed by Ordinance No. 184046,
effective September 10, 2010.)

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Chapter 3.114

OFFICE FOR COMMUNITY TECHNOLOGY

(Chapter added by Ordinance No. 149053;
amended by Ordinance Nos. 151338, 160424 and 184882,
effective September 21, 2011.)

Sections:

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

3.114.010 Creation.

(Amended by Ordinance No. 185568, effective September 28, 2012.) There is hereby established an Office for Community Technology. The Office shall be supervised by a manager who shall report to the Director of the Revenue Bureau, as provided under Subsection 3.15.060 A., or the Director's designee. As used in this Chapter and elsewhere in the City Code when referring to the Office for Community Technology, the term "Director" shall mean the Director of the Revenue Bureau or the Director's designee. The Office shall have such other employees as the Council may provide.

3.114.020 Functions.

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

- A.** The Office shall be responsible for coordinating Citywide broadband planning, communications policy advocacy, technology grants and related consumer protection activities.
- B.** The Office shall be responsible for supervising and coordinating all franchising processes engaged in by the City, for monitoring the performance of all franchisees for franchise compliance and for performing all other necessary work relating to franchises in the City.
- C.** The Office shall be responsible for promoting the orderly development of City-owned or City-partnered broadband and cable communication systems, for providing staff support needed by the Mt. Hood Cable Regulatory Commission and for performing all other necessary work related to broadband planning,

communications policy advocacy, related technology grants and cable communications in the City.

- D.** The Office shall be responsible for overseeing franchise and utility audits and revenues in coordination with the City Auditor's Office, the Office of Management and Finance and other City agencies and bureaus.

3.114.030 Jurisdiction.

- A.** The Office shall have jurisdiction over all franchisees and utility licensees. The Office shall have jurisdiction over all public or private utilities or other entities seeking similar rights to use City rights-of-way.
- B.** The Office shall have jurisdiction over all cable communications and broadband policy matters affecting the City of Portland.

3.114.040 Policy.

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

3.114.050 Administration.

(Added by Ordinance No. 185059, effective December 7, 2011.)

- A.** In exercising the Office's jurisdiction under Subsection 3.114.030 A. over the use of City rights-of-way by franchisees, licensees and permittees, the Director may adopt procedures, forms, written policies, and rules to ensure orderly administration.
 - 1.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will notify the public and affected franchisees, licensees, and permittees under the jurisdiction of the Office. Such notice, which may be provided by mail or electronic means, must be distributed not less than ten or more than thirty days before the hearing. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
 - 2.** At the public hearing, the Director will receive oral and written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing. If a substantial modification is made, additional public review will be conducted, but no additional public notice is

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required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Office. Copies of all current rules will be posted on the Office's website and made available to the public upon request.

3. Notwithstanding Subsections 3.114.050 A.1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 days.

Chapter 3.115

MT. HOOD CABLE REGULATORY COMMISSION

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

Sections:

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

3.115.010 Definitions.

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

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

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3.115.020 Cable Regulatory Commission.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

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

3.115.030 General Powers & Duties.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

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

the Agreement and a grantee franchise, the provisions of the franchise shall prevail.

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

3.115.040 Portland Community Media.

(Amended by Ordinance No. 184882, effective September 21, 2011.) The Mayor and the Commissioner in Charge of the Office for Community Technology shall each appoint one member of the board of directors of Portland Community Media, for staggered terms of two years. All appointments shall be confirmed by the Council. In appointing these directors, consideration shall be given to representation on the board of directors of the fields of arts, education, government, and community media; and of diverse representation including, without limitation, racial and ethnic minorities, non-English speaking people, gender, and low-income people. In addition, the Commission shall appoint one non-voting ex-officio director of the Portland Community Media board of directors.

3.115.060 Annexations.

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

3.115.070 Cable Television Consumer Protection.

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

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3.115.080 Definitions.

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

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

3.115.090 Local Office and Office Hours.

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

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

3.115.100 Telephone Answering Standard.

- A. Cable system office hours and telephone availability.** Grantees shall maintain a local, toll-free or collect call telephone access line which shall be available to its

subscribers 24 hours a day, seven days a week. Grantees shall provide, in at least one prominent location, an easily identifiable telephone number for local customer service on all bills, account statements or statements of service to grantee subscribers. Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays. Grantee must have trained representatives available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received by grantee after Normal Business Hours must be responded to by a trained representative on the next business day.

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

3.115.110 Installations, Disconnections, Outages And Service Calls.

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

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

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and, if the subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the grantee.

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

3.115.120 Notice Requirements.

(Amended by Ordinance No. 184882, effective September 21, 2011.)

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

State, or franchising authority on the transaction between the operator and the subscriber.

3.115.130 Billing.

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

3.115.140 Reporting.

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

Local office hours

Telephone call center hours

Telephone answering

Busy signal statistics

Standard installations

Service interruptions

Appointment windows: made, cancelled, and rescheduled

Notice requirements

Billing (refunds and credits)

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Chapter 3.116

WATERWAYS ADVISORY COMMITTEE

(Chapter added by Ordinance No. 150413,
effective September 17, 1980.)

Sections:

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

3.116.010 Created - Organization.

(Amended by Ordinance Nos. 182671 and 184046, effective September 10, 2010.) There hereby is created an advisory committee to the Commissioner In Charge of the Bureau of Planning and Sustainability to be known as the Waterways Advisory Committee, consisting of not less than 7 nor more than 11 voting members who shall serve without compensation. The Commissioner In Charge shall appoint the members of the Committee, the members to serve for a term of 2 years at the pleasure of the Commissioner In Charge. The president of the Planning and Sustainability Commission or his or her representative shall be a member of the Committee.

3.116.020 Procedures and Rules.

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

3.116.030 Duties.

(Amended by Ordinance No. 184046, effective September 10, 2010.) Members of the Waterways Advisory Committee shall:

- A.** Review any zoning Code amendment relating to waterways before it is presented to the Planning and Sustainability Commission, make its finds available to the Planning Commission and City Council;
- B.** Review and comment to the Planning and Sustainability Commission and City Council on public or private riverfront development proposals that are potentially in conflict with the City's Greenway Plan.

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- C.** Identify opportunities for City encouragement of commercial, residential, recreational, transportation and educational development that fulfills public goals.
- D.** Review the status of plans for publicly constructed segments of the Greenway path and suggest priorities for those segments.
- E.** Make recommendations to the Planning and Sustainability Commission and City Council for the development of City procedure to facilitate applicants' needs for a speedy and certain regulatory process and City policies consistent with such a goal.
- F.** Make recommendations to the Planning and Sustainability Commission and City Council on City policies governing use and development of the City's waterways.

Chapter 3.120

METROPOLITAN ARTS COMMISSION

(Chapter added by Ordinance No. 157240;
repealed by Ordinance No. 168592,
effective March 8, 1995.)

TITLE 3
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Chapter 3.122

**ECONOMIC IMPROVEMENT
DISTRICTS**

(Chapter replaced by Ordinance No. 164665,
effective September 18, 1991.)

Sections:

3.122.010	Purpose.
3.122.020	Definitions.
3.122.030	Council Control.
3.122.040	Statutory Provisions Applicable.
3.122.050	Preliminary Institution of Economic Improvement District
3.122.060	Final Plan and Ordinance Preparation.
3.122.070	Consideration of Final Plan and Ordinance.
3.122.080	Notice to Owners.
3.122.090	Exemption Process.
3.122.100	Hearing and Resolution Establishing District.
3.122.110	Preparation and Notice of Assessments.
3.122.120	Hearing on Assessments.
3.122.130	Amendments to Ordinance.
3.122.140	Limitation on Assessments.
3.122.150	Limitation on Boundaries.
3.122.160	Continuation of Assessments.
3.122.170	Expenditure of Moneys.
3.122.180	Cost of Administration.
3.122.190	Limitation on Expenditures.
3.122.200	Administration
3.122.210	Early Termination.
3.122.220	Surplus.
3.122.230	Entry and Collection of Assessments.

3.122.010 Purpose.

The purpose of this Chapter is to establish procedures for the creation of two types of Economic Improvement Districts, one in which the assessment is mandatory and applied to all properties except Exempt Properties, the second type in which the property owner can decide whether to be assessed, a voluntary assessment, as authorized by state law. The City will be ultimately responsible for administering and operating any Economic Improvement District, although the administration and operation may be carried out by

others under contract with the City. All costs of administering and operating any Economic Improvement District will be paid entirely from assessments and fees actually received from the District; the City will not pledge its credit on behalf of the District; and the City will not loan funds to the District.

3.122.020 Definitions.

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

- A. “Advisory Committee”** means a committee of persons representative of the owners and tenants of property within an Economic Improvement District and may consist of an existing association of property owners or tenants or both.
- B. “Commissioner In Charge”** means the commissioner in charge of the lead bureau.
- C. “Economic Improvement”** means:
 - 1. The planning or management of development or improvement activities.
 - 2. Landscaping, maintenance and provision of security for public areas.
 - 3. The promotion of commercial activity or public events.
 - 4. The conduct of activities in support of business recruitment and development.
 - 5. The provision of improvements in parking systems or parking enforcement.
 - 6. Any other economic improvement activity that specially benefits property. “Economic improvement” does not include any services to be provided on private property.
- D. “Preliminary Economic Improvement Plan”** means a plan prepared by the property owners or tenants within the proposed District or their designees setting out:
 - 1. A description of economic improvements proposed to be carried out;
 - 2. The number of years, to a maximum of three, in which assessments are proposed to be levied;

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3. A preliminary estimate of annual cost of the proposed economic improvements;
4. The proposed boundaries designated by map or perimeter description of an Economic Improvement District within which subject properties would be assessed to finance the cost of the economic improvements;
5. The proposed formula for assessing the cost of the economic improvements against subject properties;
6. A preliminary estimate of the cost of City administration of the proposed Economic Improvement District;
7. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
8. A statement of why the proposed economic improvements are not likely to be satisfactorily and equitably accomplished except through establishment of an Economic Improvement District.

E. “Final Economic Improvement Plan” means a plan setting out:

1. A description of economic improvements to be carried out;
2. The number of years, to a maximum of three, in which assessments will be levied;
3. The annual cost of the proposed economic improvements;
4. The boundaries designated by map or perimeter description of the Economic Improvement District within which subject properties will be assessed to finance the costs of the Economic Improvement District;
5. The formula for assessing the cost of the economic improvements against subject properties;

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6. A statement whether the assessment will be a voluntary assessment or mandatory assessment, and
 - a. If voluntary, that the scope and level of improvements could be reduced depending upon the amount of money collected; or,
 - b. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Art. XI § 11b and it may be reduced to fit within the property tax limitation thereby affecting the scope and level of services described; and
 7. The cost of City administration of the Economic Improvement District.
- F.** “**Lead bureau**” means the City office, bureau or commission determined by the Mayor to have the principal interest in a proposed Economic Improvement District.
- G.** “**Lot**” means a lot, block, or parcel or land.
- H.** “**Owner**” means the owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment roll in the Office of the County Assessor.
- I.** “**Subject Properties**” means the real property within an Economic Improvement District except for Exempt Property.
- J.** “**Exempt Property**” means:
1. Residential real property and any portion of a structure used for residential purposes. In the event a structure is used for both residential and non-residential purposes, the land on which the structure is located shall not be Exempt Property. For purposes of this subsection, “residential real property” and “residential purposes” shall not include hotels and hotel uses, as defined in Section 33.12.420 of this Code, and motels and motel uses, as defined in Section 33.12.560 of this Code, but shall include hotel and hotel uses if, for the entire hotel or entire hotel use:
 - a. The average rent per unit is less than \$2 per day, or
 - b. A majority of the units regularly are occupied by the same tenants for more than 30 consecutive days, or
 - c. A majority of the units regularly are occupied by occupants who pay for lodging on a monthly basis.

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2. Property owned or being purchased by religious organizations including:
 - a. All houses of public worship; and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this Section shall not be exempt property.
 - b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge.
 - c. Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

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

3.122.030 Council Control.

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

3.122.040 Statutory Provisions Applicable.

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

3.122.050 Preliminary Institution of Economic Improvement District.

- A.** The Council shall consider creation of an Economic Improvement District whenever owners of Subject Properties file with the Auditor a petition for the establishment of a District containing the signatures of the owners of 33 percent or more of the area or of the assessed value of subject properties within the proposed District or whenever a City Commissioner or the Mayor files a report recommending the establishment of a District. A petition or report shall contain a Preliminary Economic Improvement Plan.
- B.** The Council may adopt a resolution directing the lead bureau to begin the Economic Improvement District formation process if the Council finds that:

 - 1.** The costs of administering the proposed Economic Improvement District would not be substantial in relationship to the cost of the economic improvements;
 - 2.** It is not likely that the economic improvements would be satisfactorily and equitably accomplished except through establishment of the Economic Improvement District;
 - 3.** Establishment of the Economic Improvement District would be in the public interest;
 - 4.** In the case of a District intended to impose a mandatory assessment, that the assessment can be accommodated within the property tax limitation and City budget; and
 - 5.** The economic improvements would afford a special and peculiar benefit to subject properties within the Economic Improvement District different in kind or degree from that afforded to the general public.
- C.** The resolution may contain such revisions to the preliminary economic improvement plan as the Council deems appropriate based on the criteria set out in Paragraphs 1 through 5 of this Subsection and shall designate those City offices, bureaus, and commissions to be represented on the task force for the proposed District.
- D.** Upon adoption by the Council of a resolution under Subsection B of this Section, the Mayor shall designate a lead bureau for the proposed Economic Improvement District from among those designated to be represented on the task force and shall refer the matter to the Commissioner In Charge.

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- E.** Immediately following the referral under Subsection D of this Section, the Commissioner In Charge shall appoint an advisory committee to assist the task force in development of the final economic improvement plan. The Commissioner shall strongly consider appointment of owners of property within the Economic Improvement District to the advisory committee. The Commissioner may appoint as the advisory committee an existing association of property owners or tenants or both. The task force shall encourage participation of the advisory committee in the plan development and administration process. The advisory committee shall appoint a representative to the task force.

3.122.060 Final Plan and Ordinance Preparation.

- A.** Immediately following Council adoption of a resolution under Section 3.122.050 B, the head of each office, bureau and commission to be represented on the task force shall appoint its representative and the City Auditor shall appoint the city Auditor's representative, by notification to the head of the lead bureau.
- B.** The City Auditor's representative shall provide to the task force a report setting out:
 - 1.** Whether the petitioners under Section 3.122.050 A are owners of subject property in the proposed District;
 - 2.** Delinquencies in taxes or City liens on subject properties in the proposed District;
 - 3.** The true cash value of all real property located within the proposed District; and
 - 4.** The zoning of land within the District, including verification that only land zoned for commercial or industrial use is included within the District.
- C.** The lead bureau shall be responsible for preparing the documents referred to in Subsection D.
- D.** The task force shall prepare for the Commissioner In Charge a report recommending whether the owners of property within the proposed Economic Improvement District shall be formally notified of the proposal to establish the District, taking into consideration the criteria set out in Section 3.122.050 B. If the report recommends formal notification, the report shall include a proposed Final Economic Improvement Plan and the report of the City Auditor's representative provided under Subsection B. The report also shall include a proposed ordinance that:

1. States the Council's intention to proceed with formal notification regarding the proposed Economic Improvement District;
2. States whether the assessments will be mandatory or voluntary;
3. Contains the information in the Final Economic Improvement Plan, which may be included by attachment of the Plan as an exhibit; and
4. Directs notice to be given in the manner provided by PCC 3.122.080.

3.122.070 Consideration of Final Plan and Ordinance.

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

3.122.080 Notice to Owners.

- A. Following adoption of the ordinance under Section 3.122.070 B, the Auditor shall mail notice to the property owners within the proposed Economic Improvement District which contains the following information:
 1. The Council's intent to form an Economic Improvement District.
 2. Benefitted properties will be assessed unless it is a voluntary assessment in which case only property owners who specifically request to be assessed will be assessed. An owner who fails to submit a written objection before or at the public hearing on assessment shall be deemed to have made a specific request to be assessed.
 3. The formula for determining the amount of the assessment.
 4. The scope of the improvements and that the description of the boundaries of the proposed District and the full scope of the project are on file with the Auditor and where the file can be viewed. It should state that:

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- a.** In the case of a voluntary assessment the scope and level of the improvements may be reduced depending on the amount of money collected; or
 - b.** In the case of a mandatory assessment the scope and level of the improvements may be reduced if the amount of the assessment is compressed to fit within the property tax limitation imposed by the Oregon Constitution, Art. XI § 11b.
- 5.** The estimated cost of the proposal, and that it may be reduced to the amount of money actually received.
- 6.** The date, time and place of the hearing and that the proposal could be modified as a result of public testimony.
- 7.** The classification or types of properties which are exempt and that a request for an exemption on an enclosed form must be filed not later than 21 days after the notice is mailed.
- 8.** In the case of a voluntary assessment that it is an incurred charge and is not a tax and is a charge outside the property tax limitations in the Oregon Constitution, Art. XI, §11b.

3.122.090 Exemption Process.

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

3.122.100 Hearing and Resolution Establishing District.

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

3.122.110 Preparation and Notice of Assessments.

- A.** Following Council adoption of a resolution establishing an Economic Improvement District based on the final Economic Improvement Plan, the Auditor shall prepare the proposed assessment for each lot in the District that is a subject property and shall file a proposed assessment ordinance, with a list of proposed assessments attached, with the City Council. The amount of assessment shall be based on the cost of the economic improvements and the cost of City administration of the Economic Improvement District.
- B.** Following preparation of the proposed assessments, the Auditor shall mail to the owner of each lot to be assessed a notice containing the following information:

 - 1.** The description of the property being assessed.
 - 2.** The name of the District and whether it is a voluntary or mandatory assessment. In the case of a voluntary assessment a statement that the property will be assessed unless the property owner specifically requests in writing not to be assessed.
 - 3.** The length of the District and the total cost of the project, the assessment formula, and the amount of the assessment on the property.
 - 4.** The assessment will not change unless the Council finds it exceeds the benefit of the improvements, but the total amount and scope of the improvements and level of services could change to correspond to the amount of money collected. Further, the scope of the improvements and level of services could change as a result of the testimony.

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5. The time, date and place of the hearing and that the following forms of objection may be filed:
 - a. A written objection to being assessed in which case no assessment will be placed on the property if it is a voluntary assessment. An owner who fails to submit a written objection before or at the public hearing shall be deemed to have made a specific request for the economic improvement service to be provided during the time specified in the assessment ordinance;
 - b. An objection to the amount of the assessment on the grounds it is incorrect or exceeds the amount of benefit; and
 - c. An objection to the formation of the District.
6. A written objection may be filed with the Auditor prior to the hearing or made orally at the hearing. An objection to the assessment must explain the reasons the assessment is incorrect or exceeds the amount of benefit.
7. The assessment is due and payable immediately, and whether it may be paid in installments. The amount of interest if any and the fact there will be billing charges. The unpaid balance will become a lien on the property and failure to pay could result in foreclosure.
8. A voluntary assessment is an incurred charge and is a charge outside the property tax limitation imposed by the Oregon Constitution, Art. XI, §11b.
9. Property included in the District and assessed cannot be withdrawn from the District and the assessment will continue through the life of the District.
10. The name and phone number of a City staff person who can answer questions.

3.122.120 Hearing on Assessments.

- A. The Council shall hold a public hearing on the proposed assessment ordinance. The public hearing shall be held no sooner than 30 days after mailing the notice. The Council may continue the hearing to a date and time certain. At the hearing, property owners supporting or objecting to being assessed, to the amount of the assessment or to the formation of the District, shall be entitled to be heard.

- B.** Written objections shall be considered to have been received by the Council at the hearing if actually received at the hearing or if received by the Auditor prior to commencement of the hearing. A written objection signed by a person purporting to have authority as agent or attorney to sign an objection on behalf of an owner shall be considered received from the owner only if there is included with the objection a copy in writing of the authority to act on behalf of the owner.
- C.** If the Council at the hearing receives written objections to the formation of the District from owners of property upon which more than 33 percent of the total value of assessments are levied, then the Economic Improvement District shall not be established and assessments shall not be made.
- D.** At the hearing, the Council shall consider any objections and may adopt, correct, modify, revise the proposed assessment ordinance. In the case of a voluntary assessment, the Council shall exclude from assessment property which the owner has requested be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

3.122.130 Amendments to Ordinance.

- A.** At the hearing under Section 3.122.100, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070. The procedures required by Sections 3.122.080 and 3.122.100 shall be repeated if the amendment:
 - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment;
 - 2.** Increases the likely assessment upon one or more properties; or
 - 3.** Enlarges the Economic Improvement District;
- B.** At the hearing under Section 3.122.120, the Council may amend by ordinance the initial ordinance adopted under Section 3.122.070 as subsequently amended. If the amendment increases the likely assessment upon one or more properties, then the procedures required by Sections 3.122.110 and 3.122.120 shall be repeated. The procedures required by Section 3.122.080 through 3.122.120 shall be repeated if the amendment:
 - 1.** Changes the economic improvements to be carried out except this provision shall not apply to a voluntary assessment; or
 - 2.** Enlarges the Economic Improvement District.

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3.122.140 Assessments.

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

3.122.150 Limitation on Boundaries.

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

3.122.160 Continuation of Assessments.

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

3.122.170 Expenditure of Moneys.

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

3.122.180 Cost of Administration.

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

3.122.190 Limitation on Expenditures.

Money spent for carrying out a final Economic Improvement Plan shall be limited to

money actually received from assessments or from other public or private contributions to assist in carrying out the Plan.

3.122.200 Administration.

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

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

3.122.210 Early Termination.

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

3.122.220 Surplus.

In the event, following the normally scheduled termination of an Economic Improvement District, including the payment of all obligations and costs of administration incurred on

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behalf of the District, there remain excess funds from assessments paid by owners of subject properties, then the City Council, by ordinance, shall provide for either:

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

3.122.230 Entry and Collection of Assessments.

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

3.122.240 Economic Improvement Fund.

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

Chapter 3.123

PORTLAND UTILITY REVIEW BOARD

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

Sections:

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

3.123.010 Created - Purpose.

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

3.123.020 Scope

The Board shall perform the following functions:

- A. Participation in the financial planning process. The Bureau of Water Works, the Office of Sustainable Development and the Bureau of Environmental Services use multi-year financial planning to prioritize programs and to project operating and capital costs associated with policies and programs, and to estimate overall rate impacts. The bureaus update their financial plans throughout the year to reflect significant changes in revenues or requirements, and re-do the plans annually. The Board will review the proposed financial plans and revisions, and submit its findings and recommendations to the Council as part of the City's annual financial planning process.

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- B.** Participation in the rate design process. The Board will make recommendations to the Council on the equitable distribution of rate adjustments among customer classes, as determined in the rate design process. The Board will report on proposed rate changes to the Council during the annual budget hearings and development processes for water, sanitary sewer, stormwater and solid waste rates. The Board will also participate in the periodic review and analysis of alternative rate designs proposed by Council. The Board shall report on other city activities or proposed policies with significant impacts to water, sewer and solid waste rates.
- C.** Relationship to other citizen advisory groups. The Council and the bureaus may form other groups, as necessary, to advise on utility matters. The Board and its staff will exchange information with these other advisory groups to coordinate policy advice to the Council and the bureaus.
- D.** Relationship to other interested parties. The Board's primary responsibility and duties are to advise the Council, and its deliberations and recommendations shall be directed to Council accordingly. The Board may also share the results of its deliberations and recommendations delivered to Council with interested individuals and groups including neighborhoods, business associations, and public interest groups.

3.123.030 Membership.

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

3.123.040 Appointments - Composition.

- A.** General Criteria. All members must reside in or work predominantly in the City of Portland and have an interest in sewer, water and solid waste issues, such as system development and maintenance, service delivery, service costs and impacts on low-income households, economic development, conservation or environmental concerns. In making appointments, the Mayor and City Council will attempt to have a range of professional and academic expertise, and volunteer experience, represented on the Board in disciplines such as accounting, civil engineering, conservation, environmental sciences, health sciences, public administration, urban planning, or utility economics. In making Board appointments, the Mayor and Council shall strive to have a Board which reflects the diversity of the Portland community, especially regarding customer classes, income levels, cultural and ethnic identity, geographic location, age and gender.

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- B.** Restrictions. No individual with any direct financial interest in a city utility or solid waste franchises, whether by ownership, employment, contract or otherwise, shall be appointed to or serve on the Board.

- C.** Board Appointments. Board members shall be appointed by the Mayor and confirmed by the Council. Any Council member may submit recommendations to the Mayor on potential appointments to the board. Nominations shall reflect four general categories:
 - 1.** Residential Geographic Representation. The Mayor will seek nominations from neighborhood associations, district coalitions and residential customers (renters and land owners) in various City neighborhoods. Three seats shall be filled from residential geographic nominations. The Mayor will appoint members representing residential customers from each of three geographic areas within the City comprised of:
 - a.** West Portland - the area west of the Willamette River,
 - b.** Northeast/Southeast Portland - the area east of the Willamette River and west of Interstate 205, and
 - c.** East Portland - the area east of Interstate 205.

 - 2.** Public Interest Advocacy. The Mayor will seek nominations from organizations working to support low and moderate income issues, environmental concerns, senior, fixed income and special needs populations. Two seats shall be filled from public interest advocacy nominations. The council will strive to create diversity in making nominations for these two seats.

 - 3.** Large Commercial/Industrial Businesses: The Mayor will seek nominations from businesses which have a current industrial discharge permit, discharge at least 10,000 gallons per day of waste-water to the sewer system, or use 10,000 cubic feet of water per month. One seat shall be filled from commercial/industrial business nominations.

 - 4.** Local Businesses: The Mayor will seek nominations from businesses headquartered in the City that predominantly serve Portland-area residents. Retail, service or neighborhood businesses, and those not otherwise meeting the Large Commercial/Industrial category criteria, are eligible for inclusion in this category. One seat shall be filled from local business nominations.

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5. At-Large: To provide flexibility in meeting the Board's goal of membership diversity, the Mayor will appoint one member from applications received "at-large." Any individual or any group interested in participating on the Board may submit nominations in this category. Two seats shall be filled from At-Large nominations.

- D. Council Liaisons. Each member of the City Council may appoint one member of their staff to serve as a representative of their office to the Board. These representatives shall serve as communications contacts and shall not have voting privileges.

3.123.050 Recruitment Process.

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

3.123.060 Terms.

- A. Board members will serve, without compensation, for a term of two years. The terms of each member shall run from the date of the City Council's confirmation of the member's appointment, or such other date as the Council may establish.
- B. No member may serve on the Board for more than six consecutive years. The Board shall develop a brief process and/or form for recommendations to the Mayor in regard to members desiring reappointment.
- C. If any member of the Board is absent more than three regularly scheduled meetings of the Board during any twelve-month period, without having notified the Chair in advance of such absence, such member shall be deemed to have resigned from the Board. The member's position shall thereafter be vacant and subject to appointment by the Mayor.

- D.** The Mayor may remove any member of the Board at his or her discretion for due cause, including but not limited to malfeasance or neglect of duties.

3.123.070 Standing Committees.

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

3.123.080 Staffing.

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

3.123.090 Meeting Schedule.

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

3.123.100 By-Laws.

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

3.123.110 Annual Report and Work session.

- A.** By September 30 of each year, the Board shall prepare and submit to the Council an annual report summarizing the work performed by the Board during the previous fiscal year (July 1 through June 30). The annual report shall include, but need not be limited to, a summary of issues reviewed and analyzed; a list of

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briefings and reports received from staff, outside experts and other informed parties; a summary of recommendations forwarded to the Council; and a summary of Council action on the recommendations.

- B.** Upon the completion of each Annual Report described in Subsection 3.123.110 A. of this section, the Board shall participate in a work session with the City Council. The purpose of this work session is to present the Annual Report and to create a work plan for the upcoming year.

Chapter 3.124

**PORTLAND BUREAU OF
EMERGENCY MANAGEMENT**

(Chapter replaced by Ordinance No. 184740;
Amended by Ordinance No. 185304,
effective June 1, 2012.)

Sections:

- 3.124.010 Definitions.
- 3.124.020 Portland Bureau of Emergency Management.
- 3.124.030 Purpose.
- 3.124.040 Organization.
- 3.124.050 Director's Powers and Duties.
- 3.124.060 Staff and Delegation.
- 3.124.070 Neighborhood Emergency Team Program.
- 3.124.080 Neighborhood Emergency Teams.
- 3.124.090 Neighborhood Emergency Team Leaders.

3.124.010 Definitions.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The following definitions apply to Chapters 3.124 through 3.126:

- A. “Comprehensive Emergency Management Plan (CEMP)” means a written document that describes the City’s overall emergency management plan. A CEMP specifies the purpose, organization, responsibilities and facilities of the agencies and officials of the City in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.
- B. “Director” means the director of the Portland Bureau of Emergency Management.
- C. “Emergency” means any natural, technological or human-made, event or circumstance causing or threatening: widespread loss of life, injury to persons or property, human suffering or financial loss, including but not limited to fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism and war.

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- D.** “Emergency Coordination Center (ECC)” means the centralized location where local officials gather during an emergency to coordinate emergency response activities and implement direction from the Mayor.
- E.** “Emergency Management” means an approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.
- F.** “Emergency Notices” means information that is disseminated primarily in anticipation of or during an emergency. In addition to providing situational information to the public, it frequently provides directive actions required to be taken by the general public.
- G.** “Emergency Plan” means an ongoing plan for responding to a wide variety of potential hazards.
- H.** “Incident” means an occurrence, natural or human-made, that requires a response to protect life or property in an emergency.
- I.** “National Incident Management System” (NIMS) means the Federal Government’s standardized framework of doctrines, concepts, principles, terminology, and organizational processes for emergency management.

3.124.020 Portland Bureau of Emergency Management.

(Amended by Ordinance No. 185304, effective June 1, 2012.) There is established by the City Council the Portland Bureau of Emergency Management (PBEM) as a part of the Mayor’s portfolio.

3.124.030 Purpose.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The purpose of PBEM is to centralize leadership and coordination of emergency management.

3.124.040 Organization.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall consist of the Director and such other employees as the Council may provide. The Director shall be immediately responsible to the Mayor and, thereafter, to the City Council.

3.124.050 Director's Powers and Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Director of the Portland Bureau of Emergency Management’s duties and powers include, but are not limited to the following:

- A.** Overall administrative authority for the Office;

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- B.** Serve as principal strategic advisor to the Mayor concerning emergency management;
- C.** Implement policy directives of the City Council and the Disaster Policy Council and enforce the schedules and plans approved by them;
- D.** Manage the Emergency Coordination Center (ECC), establishing the overall structure, roles, responsibilities and direction for the operation of the ECC and ensuring that the ECC is appropriately sited, staffed, equipped, and maintained. The Director may reassign employees to ECC duties as required;
- E.** Maintain written emergency plans, including all chapters, annexes and appendices of the Comprehensive Emergency Management Plan (CEMP) and annually submit a report with any recommendations for revisions;
- F.** Maintain records documenting compliance with requirements of federal and state emergency management programs, including NIMS. When a bureau other than PBEM possesses such records, the bureau shall immediately produce them upon the request of the Director;
- G.** Develop and implement training and exercise programs for responders that test the effectiveness of the CEMP and other emergency management plans;
- H.** Develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents;
- I.** Develop and implement programs to educate the public about emergency preparedness, including volunteer programs, and train citizens to assist in emergencies;
- J.** Evaluate the effectiveness of the City's response to an emergency event.

3.124.060 Staff and Delegation.

(Amended by Ordinance No. 185304, effective June 1, 2012.)

- A.** The Director may appoint an Operations Manager who is accountable to the Director and may appoint other personnel necessary to carry out the provisions of this Chapter, when in keeping with the adopted budget for PBEM or specially funded projects.
- B.** The Director may delegate to staff members any of the Director's duties.

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- C.** In the event of an emergency, the line of succession for the PBEM is: Director, Operations Manager, Training and Exercise Manager, Planning Manager, and Planning Program Specialist.
- D.** When a succession occurs, all duties and responsibilities of the Director are transferred to the successor and any delegations remain in place unless withdrawn by the new Director.

3.124.070 Neighborhood Emergency Team Program.

The purpose of the Neighborhood Emergency Team Program is to prepare neighborhoods for self-sufficiency during an emergency by providing individuals with information, training, and exercises related to emergency preparedness and response.

3.124.080 Neighborhood Emergency Teams.

- A.** As part of the Neighborhood Emergency Team Program, the Director is authorized to:
 - 1.** Create Neighborhood Emergency Teams (NET) and define the qualifications for membership therein;
 - 2.** Develop written processes and procedures governing the conduct of members;
 - 3.** Conduct or cause to be conducted such inquiries or investigations into the fitness of an individual to serve as a NET member that the Director believes are necessary and appropriate;
 - 4.** Conduct or approve of ongoing training for NET members;
 - 5.** Designate certain NET members as team leaders for the purpose of supervision;
 - 6.** Dismiss or remove NET members.
- B.** When acting as agents of the City, NET members are entitled to defense and indemnification pursuant to ORS 30.285.

3.124.090 Neighborhood Emergency Team Leaders.

- A.** All NET members shall be immediately responsible to a team leader and thereafter the Director. The Director may dismiss or remove a NET Leader.

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- B.** NET leaders may designate one assistant for each five NET members or fraction thereof for purposes of maintaining adequate supervision of NET members during training or deployment.
- C.** NET leaders are responsible for the organization, ongoing training, communication with and operational safety of the NET members assigned to their teams.
- D.** NET leaders shall attend regularly scheduled meetings for the purposes of training and communicating with NET members.
- E.** NET leaders shall evaluate the performance of NET members and may recommend to the Director the dismissal or removal of NET members.

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Chapter 3.125

DISASTER POLICY COUNCIL

(Chapter replaced by Ordinance No. 184740,
effective July 13, 2011.)

Sections:

- 3.125.010 Disaster Policy Council.
- 3.125.020 Duties.
- 3.125.030 Membership.
- 3.125.040 Procedures.
- 3.125.050 Staff Support to Disaster Policy Council.

3.125.010 Disaster Policy Council.

The Disaster Policy Council (DPC) is hereby created for the purpose of promoting interbureau cooperation in furtherance of the City's integrated emergency management goals.

3.125.020 Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The DPC's duties include, but are not limited to, the following:

- A. During an emergency, advise the Mayor on policy matters pertaining to management of the emergency;
- B. Approve strategic, response and work plans developed by the Portland Bureau of Emergency Management and the Emergency Management Steering Committee defining the City's emergency management program goals and priorities;
- C. Monitor individual bureau progress on work plan tasks, strategic plan tasks, and response plan updates. The Mayor, in consultation with the DPC, may compel bureaus to create and complete plans and updates;
- D. Convene meetings no less than twice a year whenever:
 - 1. The President of the City Council changes, in which case the meeting shall be held within one month of the change;
 - 2. Requested by the Mayor.

- E.** Keep records of meetings and decisions.

3.125.030 Membership.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The DPC shall consist of the following members:

- A.** The Mayor, who shall be Chair;
- B.** Commissioner serving as President of the City Council, who shall be Vice Chair;
- C.** Chief Administrative Office;
- D.** City Attorney;
- E.** City Auditor;
- F.** Director, Portland Bureau of Emergency Management;
- G.** Chief of Portland Fire & Rescue;
- H.** Chief of Portland Police Bureau;
- I.** Director, Bureau of Emergency Communications;
- J.** Administrator, Portland Water Bureau;
- K.** Director, Bureau of Transportation;
- L.** Director, Human Resources;
- M.** Director, Bureau of Environmental Services.
- O.** If the Mayor is unavailable to Chair the DPC, the duties shall be performed and authority exercised by the first of the City officials in the order of membership listed in Subsections A.-M. above who is able and available.

3.125.040 Procedures.

When the DPC is required to approve plans under subsection 3.125.020 C., the decision making process shall be by consensus. The consensus shall be determined by the Chair.

3.125.050 Staff Support to Disaster Policy Council.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the DPC, including recording and communicating its decisions.

TITLE 3
ADMINISTRATION

Chapter 3.126

EMERGENCY MANAGEMENT STEERING COMMITTEE

(Chapter replaced by Ordinance No. 184740,
effective July 13, 2011.)

Sections:

- 3.126.010 Emergency Management Steering Committee.
- 3.126.020 Duties.
- 3.126.030 Membership.
- 3.126.040 Staff Support to the Emergency Management Steering Committee.

3.126.010 Emergency Management Steering Committee.

The Emergency Management Steering Committee (EMSC) is hereby created for the purpose of assisting the Portland Office of Emergency Management in developing emergency management policies and procedures for incidents requiring significant interbureau coordination.

3.126.020 Duties.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The EMSC's duties include, but are not limited to, the following:

- A.** Assign lead author responsibility to specific bureaus for the development of emergency plans, including annexes and appendices to the CEMP, and approve schedules for plan completion, plan exercise, review and revision;
- B.** Develop strategic, response, and work plans in coordination with the Portland Bureau of Emergency Management defining the City's emergency program goals and priorities;
- C.** Devise bureau-specific protocols for mobilizing resources to respond to emergencies;
- D.** Assess individual Bureau compliance with emergency plans;
- E.** Keep records of decisions;

F. Convene meetings at least monthly and at other times as requested by the Director;

G. Make periodic reports to the Disaster Policy Council so that the DPC can fulfill its duty under PCC 3.125.020.

3.126.030 Membership.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The EMSC shall consist of qualified staff from the following Bureaus:

- A.** Water Bureau;
- B.** Portland Fire & Rescue;
- C.** Portland Police Bureau;
- D.** Bureau of Environmental Services;
- E.** Portland Parks & Recreation;
- F.** Bureau of Transportation;
- G.** Bureau of Emergency Communications;
- H.** Portland Bureau of Emergency Management;
- I.** Bureau of Development Services; and
- J.** Bureau of Technology Services.
- K.** Office of Neighborhood Involvement

3.126.040 Staff Support to the Emergency Management Steering Committee.

(Amended by Ordinance No. 185304, effective June 1, 2012.) The Portland Bureau of Emergency Management shall provide staff support to the EMSC.

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ADMINISTRATION

Chapter 3.127

BUREAU OF PORTLAND FIRE AND POLICE DISABILITY AND RETIREMENT

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

Sections:

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

3.127.010 Bureau of Portland Fire and Police Disability and Retirement.

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

3.127.020 Purpose.

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

3.127.030 Organization.

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

3.127.040 Administrator's Powers and Duties.

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

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

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

3.127.050 Staff and Delegation.

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

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Chapter 3.128

OFFICE OF EQUITY AND HUMAN RIGHTS

(Chapter replaced by Ordinance No. 184880,
effective September 21, 2011.)

Sections:

- 3.128.010 Creation and Organization.
- 3.128.020 Purpose.
- 3.128.030 Director's Powers and Duties.

3.128.010 Creation and Organization.

There is established the Office of Equity and Human Rights. The Office of Equity and Human Rights shall consist of the Director and such other employees as the Council may provide. The Director shall report to the Commissioner in Charge.

3.128.020 Purpose.

The purpose of the Office of Equity and Human Rights is to:

- A.** Promote equity and reduce disparities within City government;
- B.** Provide guidance, education and technical assistance to all bureaus as they develop sustainable methods to build capacity in achieving equitable outcomes and service;
- C.** Work with community partners to promote equity and inclusion within Portland and throughout the region, producing measurable improvements and disparity reductions;
- D.** Support human rights and opportunities for everyone to achieve their full potential; and
- E.** Work to resolve issues rooted in bias and discrimination, through research, education, and interventions.

3.128.030 Director's Powers and Duties.

The duties of the Director of the Office of Equity and Human Rights include, but are not limited to:

- A.** Overall administration of the Office and supervision of its staff;

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- B.** Implementing the policy directives of the City Council and the Commissioner in Charge, and proposing policies and practices to achieve the purpose of the Office;
- C.** Developing an annual work plan to organize and prioritize the work of the Office;
- D.** Working with the Human Rights Commission, the Portland Commission on Disability and all other City bureaus, offices, boards and commissions, as well as regional partners in government, business and the community, to increase equitable outcomes and reduce disparities;
- E.** Recommending implementation strategies, accountability mechanisms, evaluation standards, and specific actions to the City Council that will achieve the goals of the Portland Plan Equity initiative, and other equity and human rights policies adopted by City Council;
- F.** Providing reports to Council and the community annually and as requested.

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Chapter 3.129

HUMAN RIGHTS COMMISSION

(Chapter added by Ordinance No. 181670;
effective March 19, 2008.)

Sections:

- 3.129.010 Staffing and Membership.
- 3.129.020 Mission.
- 3.129.030 Jurisdiction.

3.129.010 Staffing and Membership.

(Amended by Ordinance No. 184880, effective September 21, 2011.) There is established in the City of Portland a Human Rights Commission. The Commission shall be staffed by the Office of Equity and Human Rights. The Commission shall consist of 11 to 15 members. All members shall serve without compensation. Appointments are for staggered terms of three years. No member may serve more than two consecutive three year terms. When a vacancy occurs, a Human Rights Commission workgroup – after consultation with the Commissioner in Charge of the Office of Equity and Human Rights – nominates, the Mayor appoints, and the Council confirms, a member to fill the vacancy. This same process shall be used when an interim vacancy occurs to appoint a member to fill the balance of the unexpired term. Members shall be appointed by the Mayor so as to provide representation from a reasonably broad spectrum of the community, including without limitation the following factors: areas of expertise, advocacy experience, community involvement, profession, education, race, ethnicity, gender, gender identity, sexual orientation, national origin, age, religion and geographic identification. Members must live, work, worship or be enrolled in school within the City of Portland. Members are encouraged to establish constructive relationships with each member of Council, the City Auditor and other elected officials. The Mayor may remove a member from the Commission at any time, with the recommendation of the Commission and subject to approval by the Council.

3.129.020 Mission.

(Amended by Ordinance No. 184880, effective September 21, 2011.) The Human Rights Commission shall work to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion and justice for those who live, work, study, worship, travel and play in the City of Portland. In doing so, the Human Rights Commission shall be guided by the principles embodied in the United Nations Universal Declaration of Human Rights and by the Portland Plan Equity initiative. The Human Rights Commission shall report at least annually to the Council on the activities of the Human Rights Commission (to include any subcommittees or task forces as may

be established) on the progress of the Commission and any recommendations to the Council for further action.

3.129.030 Jurisdiction.

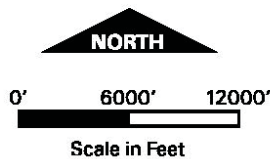
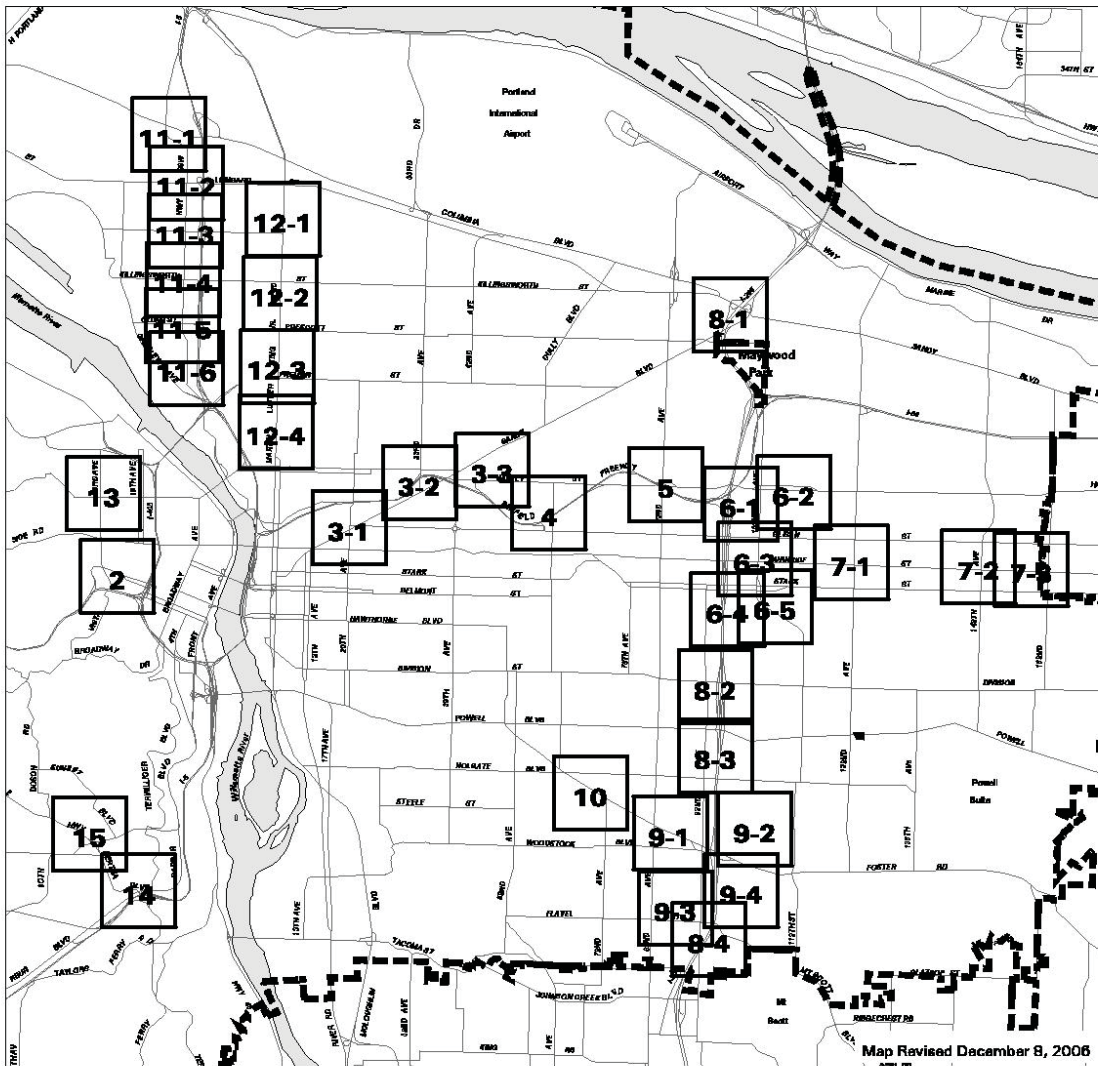
The jurisdiction of the Commission will include all practices and incidents occurring in the City of Portland which affect people who live, work, study, worship, travel or play in the City. The Commission shall have jurisdiction to address such practices and incidents through education, research, advocacy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

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

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

FIGURE 1 - (Section 3.20.130)

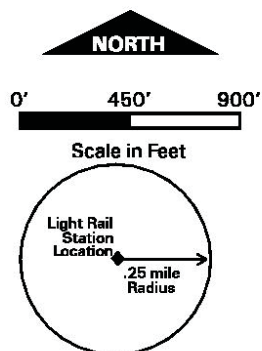
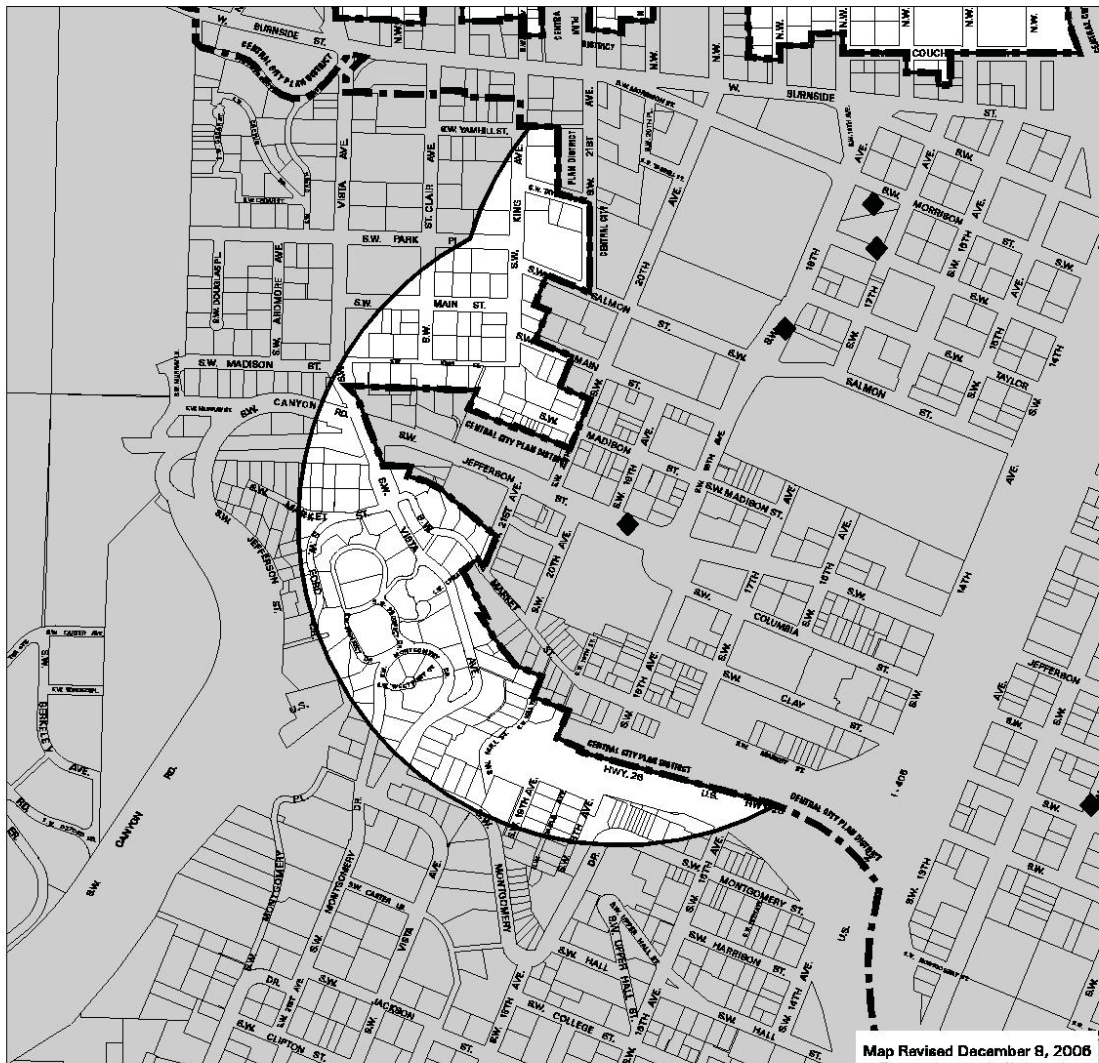


Map 3.103-1 **Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development**

Index Map

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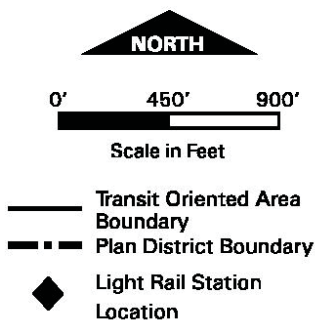
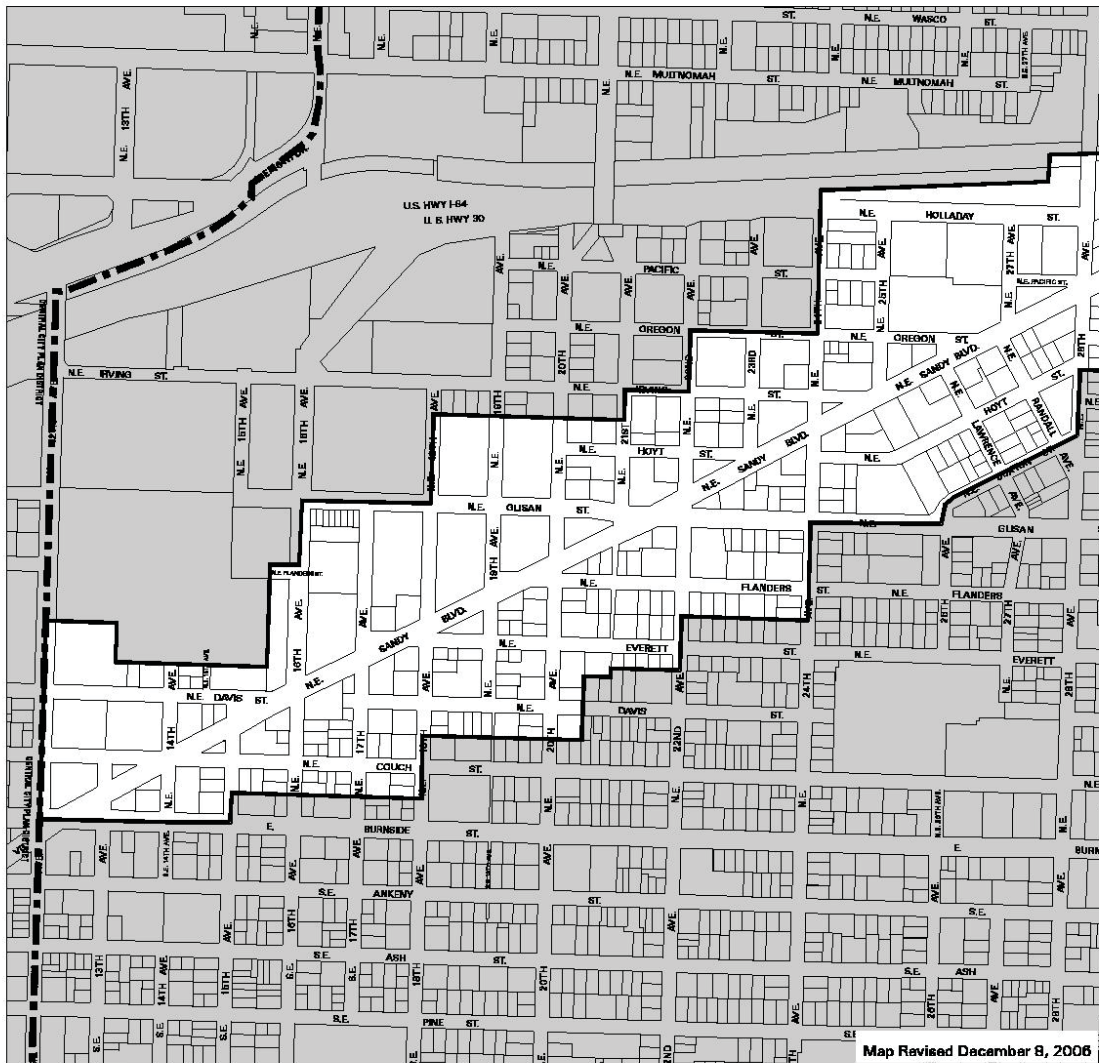
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**Map 3.103-2
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

Goose Hollow Light Rail Station Areas

Bureau of Planning • City of Portland, Oregon



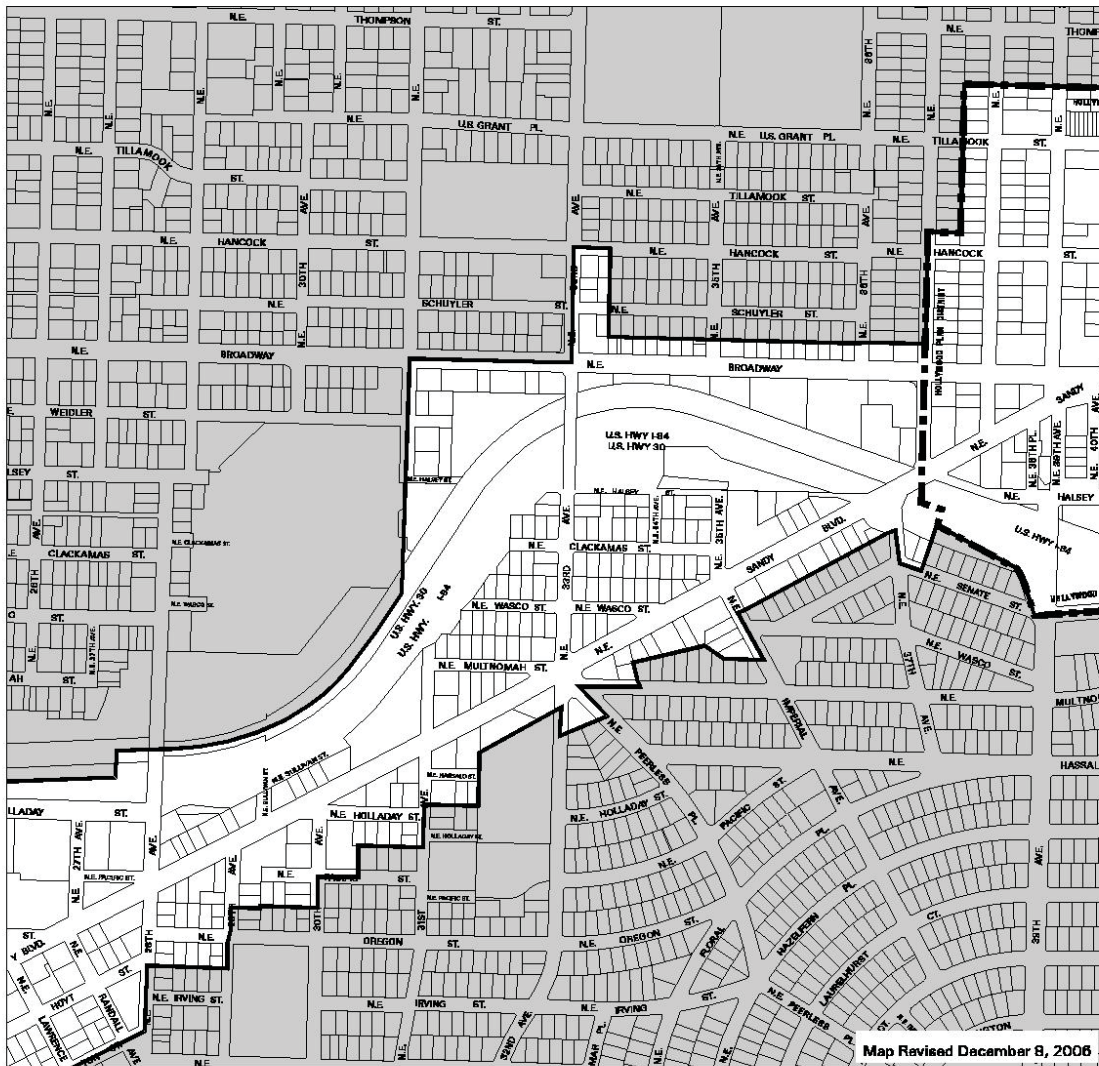
Map 3.103-3 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

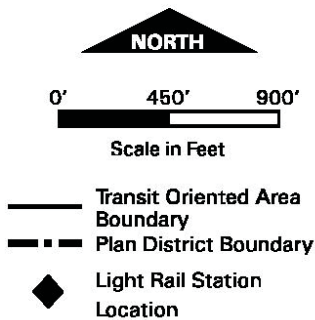
Map 1 of 3

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Map Revised December 8, 2006



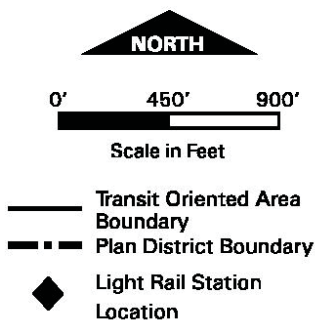
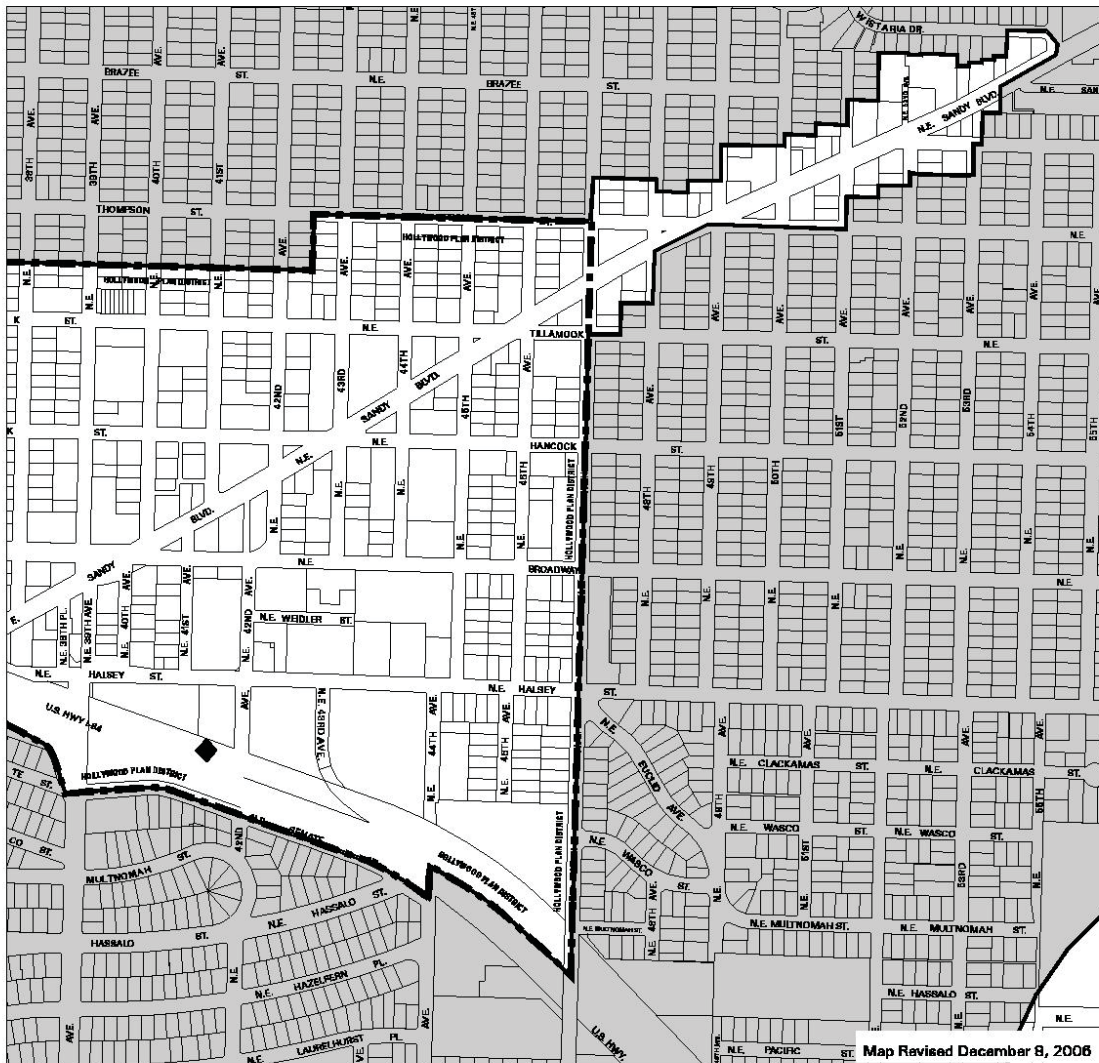
Map 3.103-3 **Property Tax Exemption for** **New Transit Supportive Residential** **or Mixed Use Development**

Hollywood Light Rail Station Area & Transit Oriented

Areas along Sandy Boulevard & Broadway Main Street

Map 2 of 3

Bureau of Planning • City of Portland, Oregon



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

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

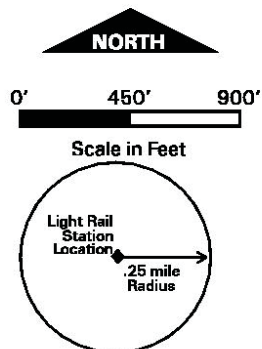
Map 3 of 3

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**TITLE 3
ADMINISTRATION**

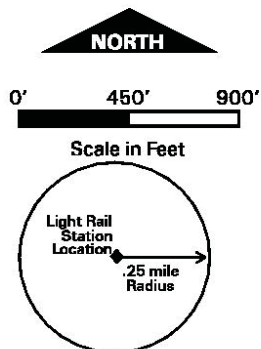
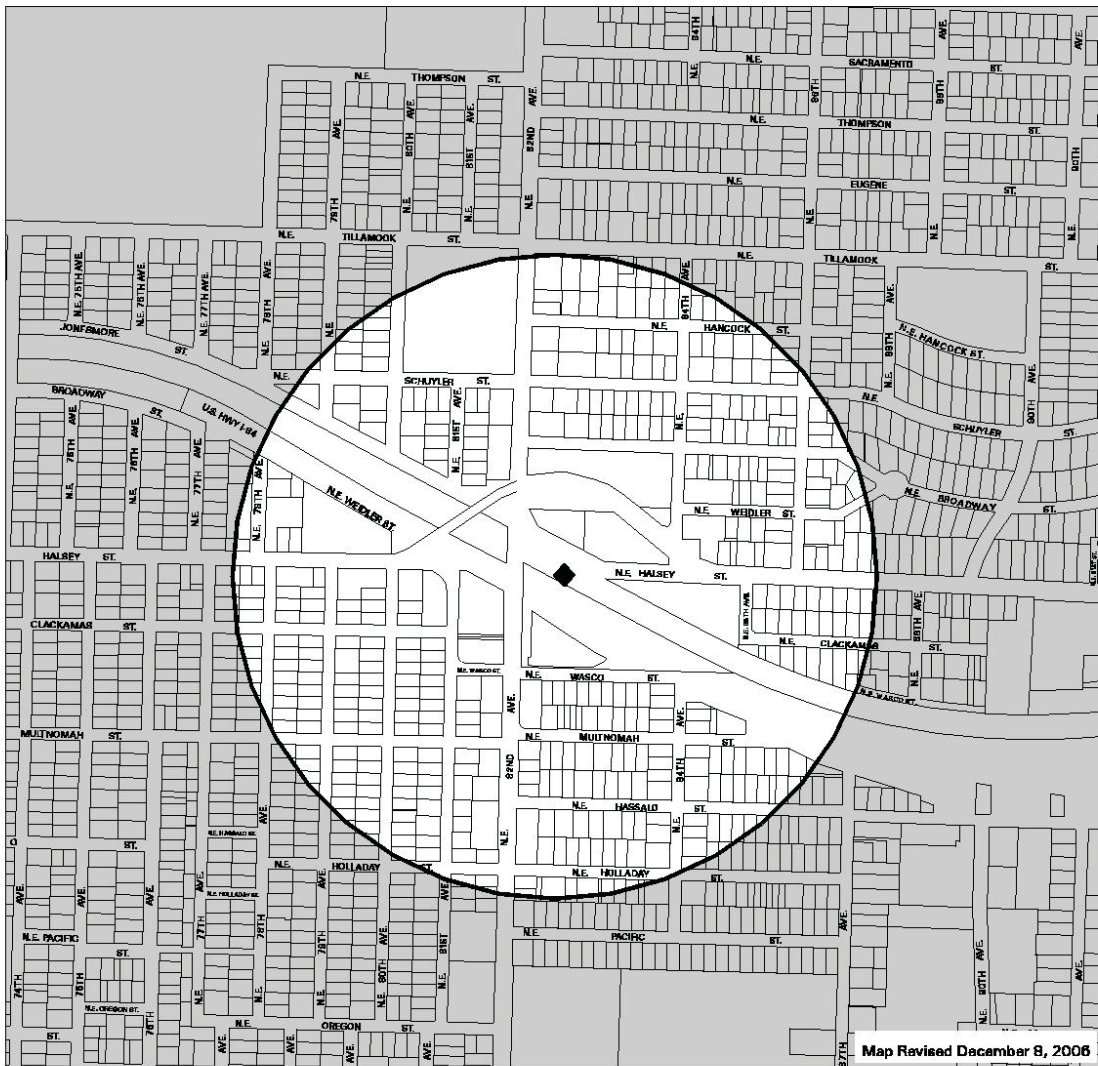


Map Revised December 8, 2006



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

Bureau of Planning • City of Portland, Oregon



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

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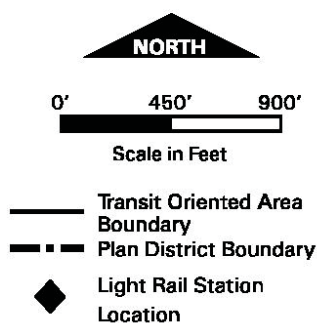
**Map 3.103-6**

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

Gateway Plan District and Light Rail Station Areas

Map 1 of 5

Bureau of Planning • City of Portland, Oregon



Gateway Plan District and Light Rail Station Areas

Bureau of Planning • City of Portland, Oregon

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ADMINISTRATION



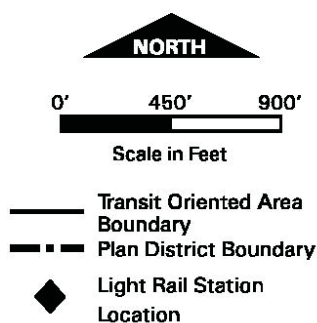
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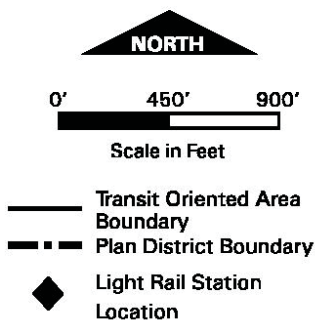
Map 3.103-6
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

Map 3 of 5

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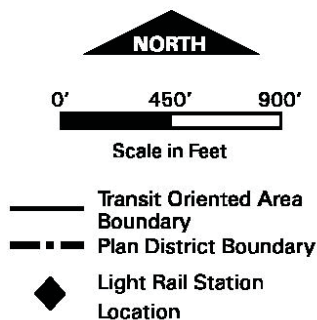
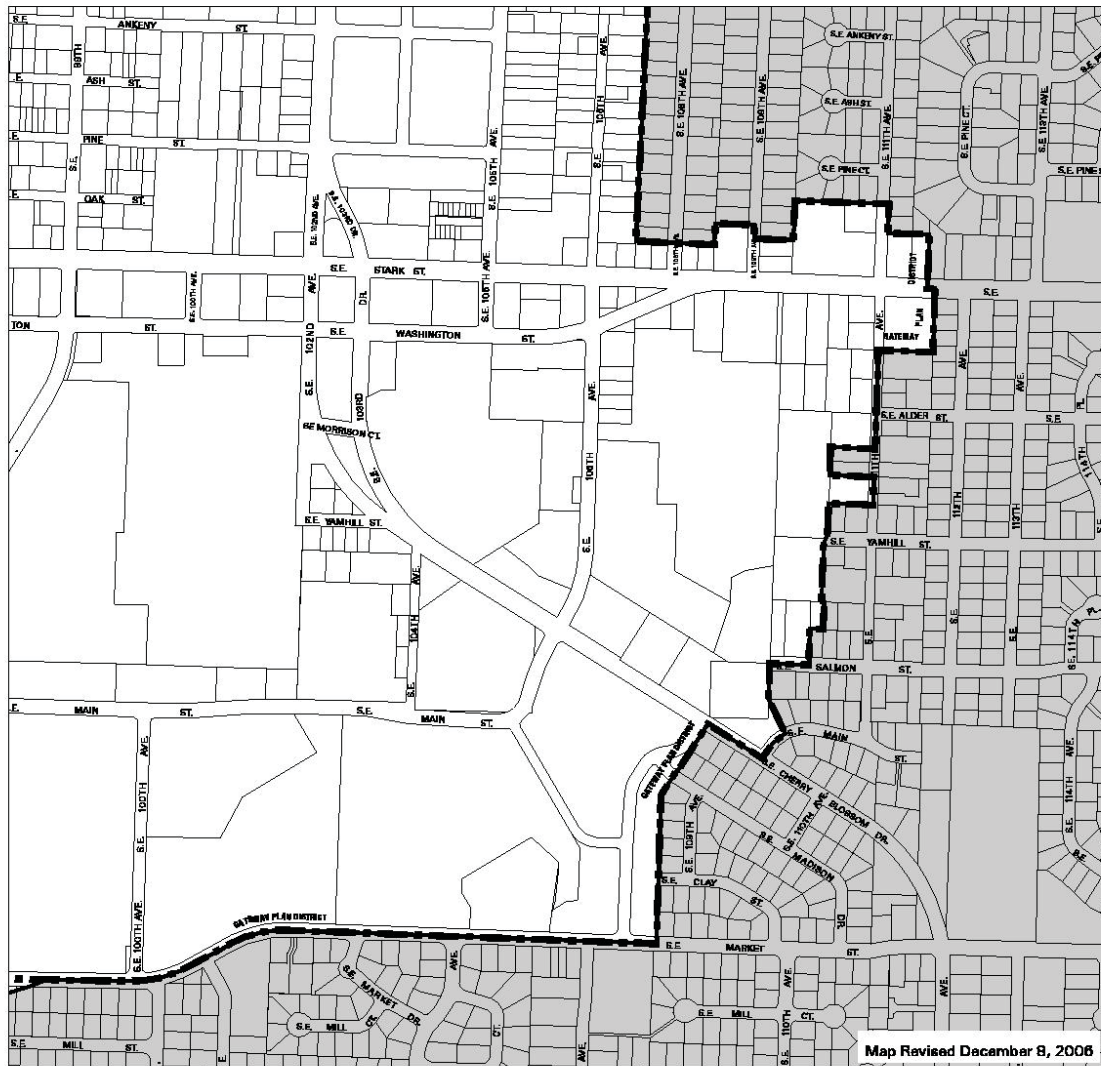
Map 3.103-6 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

Map 4 of 5

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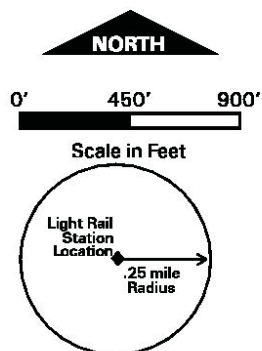


Map 3.103-6 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Gateway Plan District and Light Rail Station Areas

Map 5 of 5

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

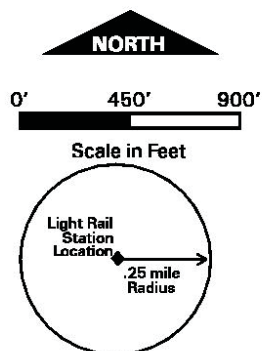
Light Rail Station Areas
East of Gateway Plan District

Map 1 of 3

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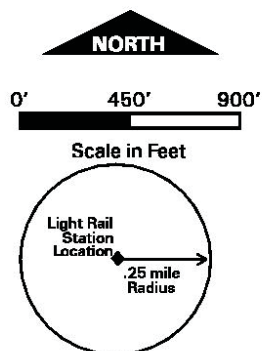


Map 3.103-7
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development

Light Rail Station Areas East of Gateway Plan District

Map 2 of 3

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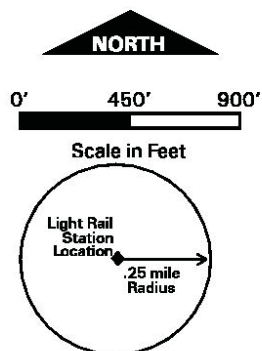
Map 3.103-7 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Light Rail Station Areas
East of Gateway Plan District

Map 3 of 3

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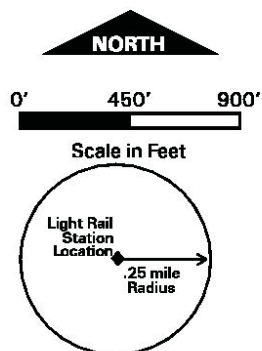


**Map 3.103-8
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

I-205 Light Rail Stations Areas

Map 1 of 4

Bureau of Planning • City of Portland, Oregon



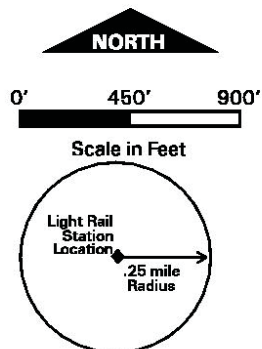
Map 3.103-8 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

I-205 Light Rail Stations Areas

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**TITLE 3
ADMINISTRATION**



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

I-205 Light Rail Stations Areas

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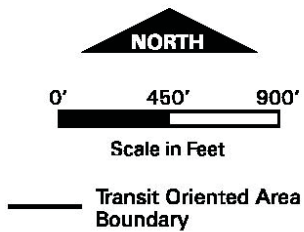
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

I-205 Light Rail Stations Areas

Map 4 of 4

Bureau of Planning • City of Portland, Oregon

**TITLE 3
ADMINISTRATION**



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

Lents Town Center

Map 1 of 4
Bureau of Planning • City of Portland, Oregon



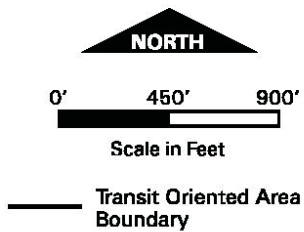
Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

Lents Town Center

Map 2 of 4

Bureau of Planning • City of Portland, Oregon

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ADMINISTRATION**



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

Lents Town Center

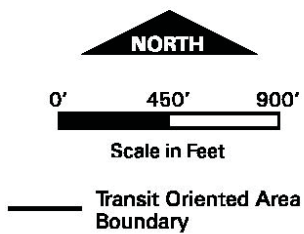
Map 3 of 4

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

Transit Oriented Areas along
Foster Road Main Street

Bureau of Planning • City of Portland, Oregon

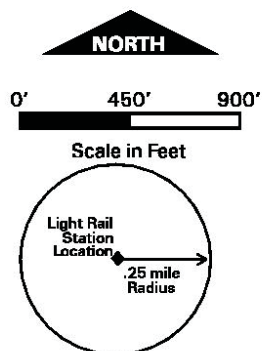


Interstate Corridor Light Rail Station Areas

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

Map 2 of 6
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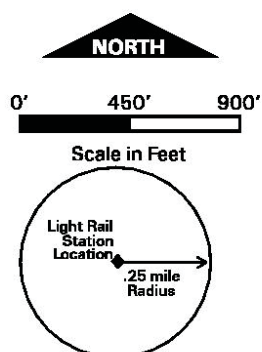


Interstate Corridor Light Rail Station Areas

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

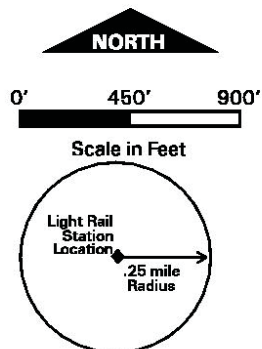
Map 4 of 6
Bureau of Planning • City of Portland, Oregon



Interstate Corridor Light Rail Station Areas

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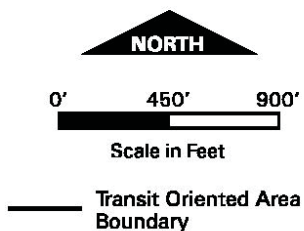
**TITLE 3
ADMINISTRATION**



**Map 3.103-11
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

Interstate Corridor Light Rail Station Areas

Map 6 of 6
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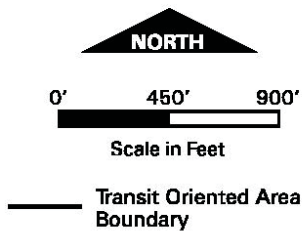
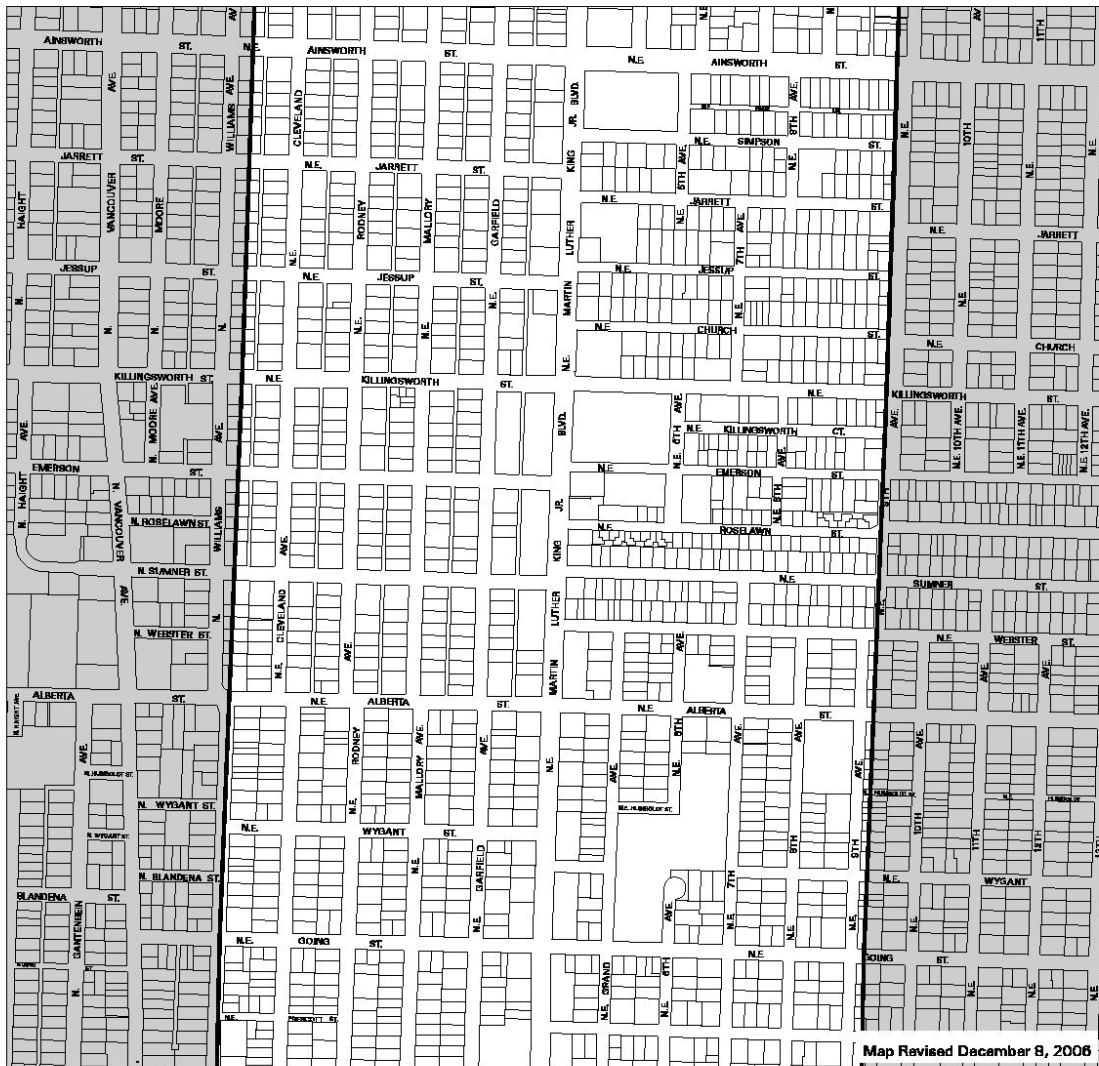
Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

Map 1 of 4

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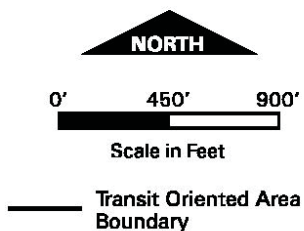


**Map 3.103-12
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development**

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

Map 2 of 4

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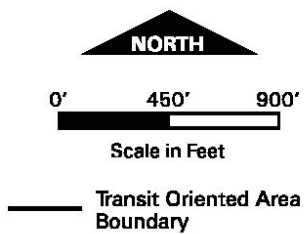
Map 3.103-12 Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development

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

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

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

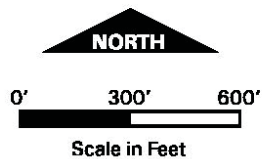
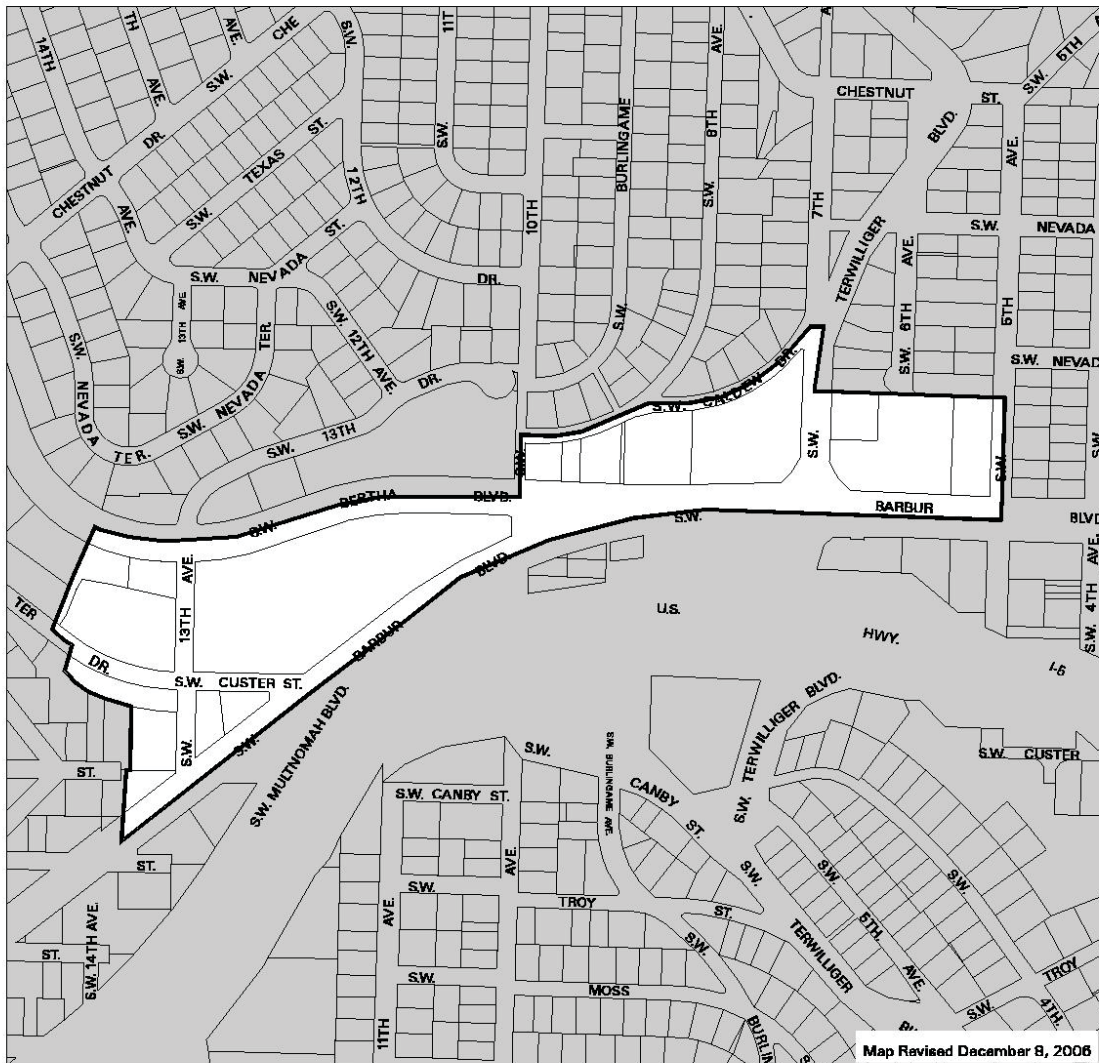
Map 4 of 4

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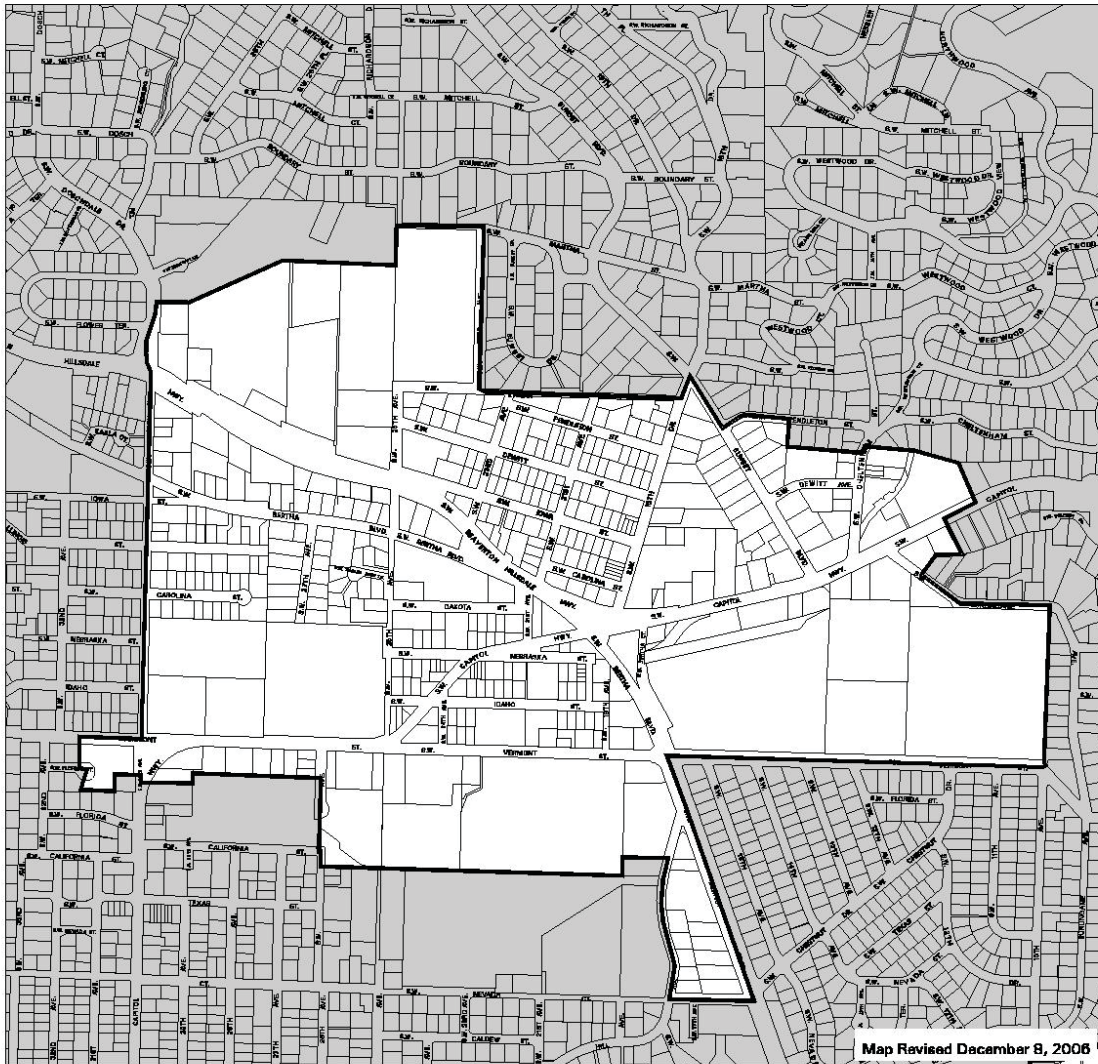
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Map 3.103-14
Property Tax Exemption for
New Transit Supportive Residential
or Mixed Use Development
Transit Oriented Areas around
SW Barbur and Terwilliger Boulevards

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

Hillsdale Town Center

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TITLE 5
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5.08.070 Clothing Allowance.

(Amended by Ordinance Nos. 131329, 141241 and 180917, effective May 26, 2007.)
Each employee of the Bureau of Police or Portland Fire & Rescue who is to receive an annual clothing allowance as provided in Section 3.20.170 or Section 3.22.100 shall be paid such clothing allowance as follows:

- A. The clothing allowance shall be at the rates specified in the current contracts with the Portland Fire Fighters Association Local 43 IAFF and the Portland Police Association.
- B. The clothing allowance shall be payable on or after July 1 of each year from funds budgeted for this purpose. Eligibility for such payment and the amount of the payment for each eligible employee shall be dependent on the assignment of the employee and the duration of such assignment during the previous fiscal year.
- C. An employee who has served for less than a full year in a position for which a clothing allowance is authorized shall receive an allowance prorated for the number of full calendar months served. For the purpose of this Section, time served shall not include leave without pay, nor time on sick leave and/or disability benefits in excess of a total of 30 days during the fiscal year.
- D. An eligible employee who separates from the City service shall receive a prorated allowance at the time of separation. The rate of such payment shall be the same as that paid during the fiscal year of separation.

5.08.075 Year Defined.

“Year” means the fiscal year, from July 1 to June 30 inclusive, as established by ORS 294.095 and 293.605, unless otherwise expressly indicated in this Code.

5.08.090 Travel Expenses.

(Repealed by Ordinance No. 175485, effective July 1, 2001.)

5.08.095 Miscellaneous Expenses.

(Repealed by Ordinance No. 175485, effective July 1, 2001.)

5.08.100 Rules For Travel and Miscellaneous Expenses.

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

5.08.105 Reimbursement to employees in Educational Programs Authorized by the Council.

(Added by Ordinance No. 133632; passed and effective Nov. 10, 1971.) Whenever the Council has authorized an off-duty educational program for employees on an individual basis to improve professional skills and has provided for reimbursing the employee for specific expenditures upon his successful completion of a course in accordance with the

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REVENUE AND FINANCE

requirements for the program, reimbursement will be made upon requisition to the City Auditor approved by the City Personnel Officer. For employees on a General Fund payroll, the reimbursement shall be charged to the General Fund. Reimbursement for an employee on a special fund payroll shall be charged to that special fund.

5.08.110 Bus Fare for Meter Readers.

Meter readers of the Bureau of Water Works shall be paid additional compensation over and above their salary as an allowance for bus fare while traveling in the line of duty if such bus fare has not been paid directly by the Bureau of Water Works. The additional compensation to be paid each meter reader shall be at the rate of \$17.50 per month, which shall be prorated for any part of a month in which the employee has not been required to pay his own bus fare.

5.08.120 Payment of Salaries and Wages at Other Than Times Specified.

Whenever it becomes necessary to pay for labor or overtime at other than the specified times indicated by this Chapter, time reports shall be certified as soon as may be required and transmitted to the Auditor for payment.

5.08.130 Salaries Chargeable to More Than One Fund.

(Amended by Ordinance No. 173369, effective May 12, 1999.) When the payroll of any bureau or department is made up of persons whose salaries are chargeable to more than one fund, such salaries may be paid by checks drawn on one such fund in the manner provided for regular payrolls provided that in such cases the bureau or department head shall draw an interdepartmental bill at the end of each month, charging the appropriation of the proper fund and crediting the revenue of the fund from which payment was made.

5.08.140 Salary Deductions.

(Replaced by Ordinance No. 172205; amended by 172562, 173326, 176426, 177833, 179023, 179643, 181483, 182887, 184215, 184257, 184399, 185028 and 185536, effective August 31, 2012.)

A. Salary and wage deductions, other than Public Employees Retirement System, Worker's Compensation Self-Insurance and assignments or garnishments prescribed by law or authorized by an employee, shall be made on the biweekly payrolls. Only the employee may authorize voluntary deductions or changes in exemptions for tax withholding purposes. Each authorization bearing the signature of the employee shall be kept on file by the Office of Management and Finance.

- 1.** Federal Income and Withholding Tax
- 2.** Social Security and Medicare
- 3.** State Income and Withholding Tax

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4. Savings Bonds-City Treasurer
5. Workers' compensation Self-Insurance
6. Public Employees Retirement System
7. PACE Credit Union
8. MULTCO Employees Credit Union
9. IBEW Credit Union
10. ING Financial Advisors, LLC
11. PACE Credit Union-Deferred Compensation
12. ICMA-Deferred Compensation
13. ITT Hartford-Deferred Compensation
14. Nationwide Retirement Solutions
15. Portland Police Commanding Officers Association-PPCOA
16. Portland Metropolitan Employees Union, DCTU, Local 189
17. Painters and Allied Trade Union, Local 10
18. International Brotherhood of Electrical Workers, Local 48
19. Willamette Lodge, IAMAW, Local 63
20. Operating Engineers, Local 701
21. United Association of Plumbing & Pipe Fitting, Local 290
22. Auto Mechanics, Mt. Hood Lodge, Local 105
23. Municipal Employees Union, Local 483
24. Portland Police Association
25. Fire Fighter Association, Local 43

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- 26. City of Portland Professional Employees Association, COPPEA
- 27. City Treasurer Trustee Fund for Benefit of Portland Police Contributions Committee-Police Special Contributions
- 28. Portland Police Beneficiary Association
- 29. Portland Police Historical Society
- 30. Portland Police Athletic Association
- 31. Fire & Police Insurance Association
- 32. Fire & Police Disability and Retirement Fund
- 33. Nationwide Auto Insurance
- 34. Family Cancer Plan Insurance Company
- 35. Kaiser Health Plan
- 36. Standard Insurance
- 37. Portland Building Fitness Center
- 38. Maintenance Bureau Fitness Center
- 39. Parking Patrol's Fitness Center
- 40. Portland Police Fitness Room Trustee Fund
- 41. C-Tran Employee Transit Program
- 42. Portland Police Relocation Loan Program Repayment Fund.
- 43. Z-Man Scholarship Foundation.
- 44. Portland Police Association Cover Foundation.
- 45. Police Activities League of Greater Portland.
- 46. Jeff Morris Fire & Life Safety Foundation.

**TITLE 5
REVENUE AND FINANCE**

47. Boys & Girls Clubs of Portland Metropolitan Area.

48. Oregon 529 College Savings Plan.

- B.** Each entity or agency authorized by Subsection A. to receive money through the use of the payroll deduction system, except those agencies or entities referred to in Subsection C., shall pay to the City a fee of 50 cents for each payroll deduction that is made from an employee's paycheck.
- C.** The entities or agencies whose names are preceded by the numbers described herein shall not be required to pay the fee described in Subsection B.: 1., 2., 3., 4., 5., 6., 10., 11., 12., 13., 14., 15., 16., 17., 18., 19., 20., 21., 22., 23., 24., 25., 26., 31., 32., 35., 36., 43., 44., 45., 46., 47. and 48.

5.08.150 State Tax Street Fund.

Whenever salaries chargeable to the State Tax Street Fund are paid on payrolls charged to the General Fund, the Commissioner of Public Works may at the beginning of each month, estimate the amount of service to be charged during the ensuing month and transfer such amount from the State Tax Street Fund to the General Fund by departmental bill. At the end of each month, when the exact amount chargeable to the State Tax Street Fund is determined the amount transferred must be correct by departmental bill.

5.08.160 Delivery of Checks payable to Deceased Persons.

(Amended by Ordinance Nos. 133986 and 173369, effective May 12, 1999.) Delivery of checks payable to any person employed by the City, or payable to any person receiving disability or retirement benefits from the City, shall be made in the following manner upon the death of such person:

- A.** Where the person's estate is admitted to probate in any county in Oregon, delivery shall be made to the representative thereof after the Auditor has been furnished a certified copy of letters testamentary or letters of administration;
- B.** Where the person's estate is admitted to probate outside this state, delivery shall be made as provided in Subdivision A of this Section, except that the Auditor shall first notify the Department of Revenue of the total amount to be paid. Delivery of checks shall not be made less than 30 days after notice to the department of revenue and 90 days after death;
- C.** Where the person's estate is not probated, and the heir or next of kin making claim for checks is a resident of Oregon, delivery shall be made to that heir or next of kin after that individual has furnished the Auditor a hold harmless agreement as provided in Section 5.08.170;

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- D.** Where the person's estate is not probated, and the heir or next of kin making claim for checks is not a resident of Oregon, delivery shall be made to that heir or next of kin after that individual has furnished the Auditor a hold harmless agreement as provided in Section 5.08.170 and if the amounts total more than \$200 a bond, underwritten by a surety authorized to do business in this State, to defend and indemnify the City, its officers, agents and employees against any claim, suit, action or judgment arising out of the delivery or payment of the checks;
- E.** Checks payable to deceased employees, or to persons entitled to disability or retirement benefits prior to their death, shall be drawn in the usual course of business only, and shall be delivered by the Auditor as provided by this Section, without further action of Council;
- F.** The Auditor shall attach to each check issued under this Section an authorization for transfer in the following form:

AUTHORIZATION FOR CHECK TRANSFER

KNOW ALL MEN BY THESE PRESENTS

That (name of applicant) has applied for transfer of Check No. dated 19 . . . , payable to (name of payee), deceased, as (Heir, next of kin, executor or administrator of the estate), that pursuant to Title 5 of the Code of the City of Portland, as amended, I am authorized to deliver said check to (name of applicant) and the Treasurer of the City of Portland is directed to cash the same upon.. . . . endorsement thereof.

PLEASE DO NOT DETACH

.....
Auditor of the City of Portland
By

Deputy

The Auditor shall furnish the Treasurer a copy of all authorizations for transfer he issues, and the Treasurer shall honor all checks described in the authorizations for transfer when endorsed by the applicant named therein.

5.08.170 Hold Harmless Agreements.

(Amended by Ordinance No. 173369, effective May 12, 1999.) Hold harmless agreements required by subdivisions C and D of Section 5.08.160 shall be in the following form:

HOLD HARMLESS AGREEMENT

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REVENUE AND FINANCE

WHEREAS there was due and owing by the City of Portland, Oregon, to
.....who died, 19, the sum of
\$ representing
..... and the Auditor of the City of Portland holds said sum in the form of
checks drawn payable to the said deceased; and

WHEREAS there will be no probate of the decedent's estate and I, as
..... (heir, next of kin) of the deceased, have applied to the Auditor of the
City of Portland for delivery of these checks according to the provisions of Title 5 of the
Portland Municipal Code, as amended, whereby the Auditor may deliver these checks to
me, as, (heir, next of kin) only upon condition that I first
release and discharge the City of Portland, its officers, agents and employees from all
liability with respect to delivery of these checks and payment thereof, and agree to defend
and indemnify the City of Portland, its officers, agents and employees therefrom;

NOW, THEREFORE, in consideration of the payment to me of said sum, I
hereby release and discharge the City of Portland, its officers, agents and employees from
all liability arising from or consequent upon the payment to me of said sum and I hereby
assume and agree to and with said City, its officers, agents and employees that I will
defend and indemnify them against any claim, suit, action or judgment in consequence of
the delivery of checks for, or payment of, said sum.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this
..... day of, 19
.....(SEAL)

.....
Address

WITNESS:
.....
.....
Address

Approved as to form:

.....
City Attorney

5.08.180 Effect of Death upon Assignments and Levies.

- A.** The Auditor shall recognize no power of Attorney or assignment of wages, salary, disability or retirement benefits, reimbursement of expenses or contributions, or any other monies owing a person by virtue of past or present employment with the City, after the death of that person, notwithstanding Section 5.12.030.
- B.** If the Auditor receives notice of garnishment (except from the State Tax Commission of Oregon) or an order for payment of money into any federal or

TITLE 5
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state court in Oregon, which notice or order applies to wages, salary or other monies due an employee of the City, and the employee is deceased or dies at any time before return is made thereon, the Auditor shall hold all monies pending further order of court and shall immediately notify the City Attorney of the notice or order and of the employee's death. Upon receipt of this notice the City Attorney shall file a supplemental pleading in the case wherein the garnishment or levy was undertaken, to advise the court of the employee's death and to obtain an order of court as to what disposition should be made of the monies held by the Auditor. The procedure authorized herein shall be followed notwithstanding Section 5.12.050.

- C. The Auditor shall make a return upon any notice of levy issued by the United States Treasury Department and any notice of garnishment issued by the State Tax Commission of Oregon, of wages, salary or other monies due an employee of the City, if the employee is living at the time the notice is served. If the employee is deceased at the time the notice is served, the Auditor shall:
1. Make payment as provided in Section 5.08.160, advising the recipient thereof, in writing, of the existence of the tax lien; and
 2. Notify the taxing authority, in writing, of the fact and date of the employee's death, the date and amount of the payment, the name and address of the recipient thereof, and the recipient's relationship to the deceased. The procedure authorized herein shall be followed notwithstanding Section 5.12.050.

TITLE 6 SPECIAL TAXES

Chapter 6.04	TRANSIENT LODGINGS TAX
6.04.010	Definitions.
6.04.020	Tax Imposed.
6.04.030	Collection of Tax by Operator; Rules for Collection.
6.04.040	Operator's Duties.
6.04.050	Exemptions.
6.04.060	Registration of Operator; Form and Contents; Execution; Certification of Authority.
6.04.070	Due Date; Returns and Payments.
6.04.080	Penalties and Interest.
6.04.090	Deficiency Determinations Fraud, Evasion, Operator Delay.
6.04.100	Redeterminations.
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6.06.290	Lloyd Business District Early Termination.

Chapter 6.05

TOURISM IMPROVEMENT DISTRICT

(Chapter added by Ordinance No. 185443,
effective July 20, 2012.)

Sections:

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Required.
- 6.05.040 License Transfer.
- 6.05.050 License Term.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
- 6.05.080 Disposition of License Fees.
- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 Late Penalties and Interest.
- 6.05.110 Civil Penalties.
- 6.05.120 Revenues and Programs.
- 6.05.130 Portland Tourism Improvement District Periodic Sunset Review.
- 6.05.140 Severability.

6.05.010 Portland Tourism Improvement District.

The Portland Tourism Improvement District includes all hotels, as defined in Section 6.05.020, with 50 or more rooms within the Portland City limits.

6.05.020 Definitions.

- A. “Bureau” means the Revenue Bureau of the City of Portland, along with its employees and agents;
- B. “Bureau Director” and “Director” mean the Director of the Revenue Bureau of the City of Portland, or his or her designee;
- C. “District” means the Portland Tourism Improvement District as described in this Chapter;
- D. “Notice” means a written document mailed by the Bureau by first class mail to the last known address of a hotel as provided to the Bureau in the latest application or return on file at the Bureau; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if

that Bureau has no address record, as provided to the Revenue Bureau in the latest business license tax return on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;

- E.** “Hotel” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- F.** “Engaged in hotel management activities” means:
- 1.** Being financially responsible for a water service provided to a hotel;
 - 2.** Being financially responsible for operation of a hotel business;
 - 3.** Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for waste disposal service provided to a hotel;
 - b.** Being responsible for providing fire insurance for a hotel;
 - c.** Being responsible for repair and maintenance of a hotel;
 - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a hotel; and
 - f.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a hotel.
- G.** "City Council" means the City Council of the City of Portland, Oregon.
- H.** "Rent" means the consideration charged by the hotel, whether or not received by the hotel, for the occupancy of guest rooms only, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- I.** “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.

- J.** “Person” means a natural person, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in hotel management activities within the District.
- K.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.

6.05.030 License Required.

Any person engaged in hotel management activities of any hotel with 50 or more rooms within the District shall obtain a license for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. Only one person need obtain a license for each hotel in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of hotel property management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.05.040 License Transfer.

- A.** Except as provided in this Section, no license shall be transferred or assigned from one person to another.
- B.** The Bureau shall allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted hotel management activities requiring a license under this Chapter. Any transfer shall be reported to the Bureau in writing or on a form provided by the Bureau and shall be effective when the Bureau approves the transfer as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Bureau’s approval; and the transferee shall be responsible for any license fee installments which become payable after the Bureau’s approval.

6.05.050 License Term.

- A.** Each license issued under this Chapter shall be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter shall expire on the first September 30 following the date on which the license was issued.

- B.** Any person under license who wishes to continue engaging in hotel management after the expiration of a license term must file a license renewal at least 30 days before the license expires or such other time as is established by Bureau rule.

6.05.060 Portland Tourism Improvement District License Rate.

The license assessment established by this Chapter for hotel management activities in the Portland Tourism Improvement District for a license year shall be calculated as follows:

- A.** Gross rent charged by the hotel;
- B.** Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C.** Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D.** Minus rent received from stays by any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E.** Multiplied by .02 (two percent).

6.05.070 Due Date; Returns and Payments.

- A.** The assessment imposed by this Chapter is due and payable on the 15th day of the following month for the preceding three months; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The Bureau has the authority to classify and/or direct the hotels for determination of applicable collection periods. The initial return under this Chapter may be for less than three months preceding the due date based on the date of license issuance; thereafter returns shall be made for the applicable quarterly period, unless other reporting periods are required by the Bureau.
- B.** On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter assessment on a form prescribed by the Bureau shall be filed. The return shall be filed in such form as the Bureau may prescribe by every person liable for payment of the assessment.
- C.** Returns shall show the amount of assessment owed for the quarter. The Bureau may require returns to show the total rentals upon which the assessment was

calculated, gross receipts of the hotel for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

- D.** The person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Bureau at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.
- E.** For good cause shown, the Bureau may extend, the time for making any return or payment of the assessment for a period not to exceed one month. No further extension shall be granted, except by the Bureau Director. Any person granted an extension shall pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month. If an extension is granted and the assessment and interest due is not paid by the end of the extension granted, then the interest shall be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.
- F.** The Bureau, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly periods.

6.05.080 Disposition of License Fees.

- A.** To cover its cost of collecting the assessment, the Bureau may retain up to one percent of the revenues collected.
- B.** The Bureau shall forward net revenues collected, minus any amount withheld pursuant to Subsection 6.05.080 A., to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
 - 1.** Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed

rules, and the location at which copies of the full text of the proposed rules may be obtained.

2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.
3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

6.05.100 Late Penalties and Interest.

- A. Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and which fails to remit any assessment imposed by this Chapter prior to the delinquency date shall pay a late penalty of 10 percent of the amount of the assessment due in addition to the amount of the assessment.
- B. Continued Delinquency. Any Licensee which has not been granted an extension of time for remittance of assessments due, and which failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency late penalty of 15 percent of the amount of the assessment due plus the amount of the 10 percent late penalty first imposed and any interest assessed.
- C. Fraud. If the City determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the assessment shall be added thereto in addition to the late penalties stated in Subsections A. and B. of this Section.
- D. Interest. In addition to the late penalties imposed, any Licensee that fails to remit any assessment imposed by this Chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the

amount of the assessment due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.

- E.** Late Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the assessment herein required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts.
- F.** Petition for Waiver. Any Licensee that fails to remit the assessment herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the hotel may petition the City for waiver of the penalty or any portion thereof and the City may, if a good and sufficient reason is shown, waive and refund or credit to another period the penalty or any portion thereof.

6.05.110 Civil Penalties.

- A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.05.120 Revenues and Programs.

- A.** Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit hotels paying the assessment. Programs may include:
 - 1.** Internet, radio, television, and print advertising;
 - 2.** Branding efforts;
 - 3.** Sales promotions;
 - 4.** Sponsorship of special events which attract out-of-town visitors; and
 - 5.** Other programs designed to increase overnight stays at hotels.

- B.** Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:
- 1.** Prepare and submit to the City, and make available to lodging businesses, an annual report on expenditures and activities;
 - 2.** Manage funds in accordance with the provisions of this Chapter;
 - 3.** Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
 - 4.** Enter into an Agreement with the City relative to management of district funds.
- C.** The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. TID funds shall supplement the existing funding of 1 percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City.

6.05.130 Portland Tourism Improvement District Periodic Sunset Review.

During 2017 and each 5th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2017 and each 5th year thereafter, the City shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

6.05.140 Severability.

If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.

Chapter 6.06

**DISTRICT PROPERTY
MANAGEMENT LICENSE**

(Chapter replaced by Ordinance No. 175729,
effective July 27, 2001.)

Sections:

6.06.010	License Required.
6.06.020	Definitions.
6.06.030	Authority of Manager to Adopt Rules, Procedures and Forms.
6.06.040	License.
6.06.050	Exemptions from License Requirements.
6.06.060	License Transfer.
6.06.080	License Term.
6.06.090	Preparation and Notice of Fee.
6.06.095	Preparation and Notice of Fee Adjustment.
6.06.100	Appeals.
6.06.110	Registration for License.
6.06.120	Interest on Delayed Application.
6.06.140	Fee Payment in Two Installments.
6.06.145	Fee Payment in One Installment.
6.06.150	Penalty and Interest on Failure to Pay Fee.
6.06.160	Civil Penalties.
6.06.180	Severability.
6.06.190	Clean & Safe District.
6.06.200	Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.
6.06.210	Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.
6.06.211	Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.
6.06.212	Clean & Safe District Exempt Property.
6.06.213	Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.
6.06.214	Clean & Safe District Square Footage of Improvements.
6.06.215	Pledging of Clean & Safe District License Fee Revenues.
6.06.216	Lighting Revenues and Program.
6.06.220	Clean & Safe District Periodic Sunset Review.
6.06.230	Clean & Safe District Early Termination.

**TITLE 6
SPECIAL TAXES**

- 6.06.240 Request Annual CPI Increase to be Different than Calculated.
- 6.06.250 Lloyd Business District.
- 6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.
- 6.06.270 Revisions to License Fee Year Schedule.
- 6.06.280 Lloyd Business District Periodic Sunset Review.
- 6.06.290 Lloyd Business District Early Termination.

6.06.010 License Required.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Any person engaged in property management activities within a District will pay a license fee for such activities covering each license year, or if registration is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, will not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of property management in a District, and the revenues collected will be used to provide, through a qualified contractor, cleaning, security, crime prevention, business development, transportation, public policy, housing, and marketing and communications services, or any such services, that benefit properties in the District. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City will not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.06.020 Definitions.

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) Unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

- A. “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B. “Bureau” means the Revenue Bureau of the City of Portland, along with its employees and agents;

- C.** “Business property” means real property that is not residential property and is not exempt property. If real property in the District in part is residential or exempt property and in part is neither residential nor exempt property, then “business property” is that portion of the real property that is neither residential nor exempt property, including a proportionate share of the land. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property;
- D.** “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, not seasonally adjusted, as published semi-annually by the United States Bureau of Labor Statistics;
- E.** “CPI-W adjustment factor” for a license year means the fraction in which the numerator is the CPI-W HALF1 immediately preceding the commencement of that license fee year and the denominator is the CPI-W for HALF1 for 2011;
- F.** “District” means an enhanced services district as described in this Chapter;
- G.** “Elevator capacity” means the pounds of elevator capacity for elevators type PXH, PXVE, and PXE as recorded in the records of the Building Codes Division of the Oregon Department of Consumer and Business Services;
- H.** “Engaged in property management activities” means:
- 1.** Being financially responsible for a water service provided to a building or, if there is no building on property, to land within the District, in the event there is a single water service serving the property;
 - 2.** Being financially responsible for operation of a business or a residential use that exclusively occupies a building or, if there is no building on property, land within the District, in the event there is no water service serving the property;
 - 3.** Being financially primarily responsible for the indicia of management of property within the District, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for a water service provided to common areas of a building;
 - b.** Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;

- c.** Being responsible for providing fire insurance for a building;
 - d.** Being responsible for repair and maintenance of a building;
 - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and
 - f.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
- 4.** Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out will not constitute being “engaged in property management activities.”

I. “Exempt property” means:

- 1.** Mass shelters, as defined in Chapter 33.910 of this Code;
- 2.** Property owned or being purchased by religious organizations including:
 - a.** Houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, “exempt property” does not include any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this subsection; and
 - b.** Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the license year; and
- 3.** Any other property in a particular District established by this Chapter that this Chapter identifies as exempt property for that District.

J. “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;

- K.** “Manager” means the Director of the Revenue Bureau or his or her designee;
- L.** “Notice” means a written document mailed by the Bureau by first class mail to the last known address of a licensee as provided to the Bureau in the latest application on file at the Bureau; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Bureau in the latest general business license tax return on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;
- M.** “Person” means a natural person, sole proprietorship, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity capable of engaging in property management activities within the District;
- N.** “Qualified contractor” means a non-profit corporation or other non-profit entity established by property owners or licensees in the District for the purpose of providing services that benefit the District;
- O.** “Residential Property” means real property that is exclusively in residential use and is not exempt property. If part of real property is in residential use and part is not in residential use or is exempt property, then “residential property” is that portion of the real property that is exclusively in residential use and is not exempt property, and a proportionate share of land. Property is considered to be in residential use if the use is within a “Residential Use Category” as defined by Chapter 33.920 of this Code. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property; and
- P.** “Square feet” and “square footage,” except as otherwise expressly stated in this Chapter, means square footage as recorded in the records of the Multnomah County Office of Assessment and Taxation or, if not so recorded, as measured using the same method as used by the Multnomah County Office of Assessment and Taxation.

6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.

**TITLE 6
SPECIAL TAXES**

1. Prior to the adoption of any rule by the Manager pursuant to this Section, a public hearing will be conducted. The Manager will give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice will include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
2. During the public hearing, the Manager will hear statements or receive written comment concerning the proposed rules. The Manager will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review may be conducted, but no additional public notice will be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules will be effective upon adoption by the Manager. All rules adopted by the Manager will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
3. Notwithstanding Subsections 6.06.030 B.1.-2., the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

6.06.040 License.

(Amended by Ordinance No. 185495, effective July 11, 2012.) No person will engage in property management activity within the District unless such person first will have paid a license fee installment as described in Subsection 6.06.140.

6.06.050 Exemptions from License Requirements.

Persons who the city is prohibited from licensing or taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City are exempt from the license requirements imposed by this Chapter, to the extent of any such prohibition.

6.06.060 License Transfer.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. Except as provided in this Section, no license will be transferable from one person to another.

- B.** The Bureau may allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted property management activities requiring a license under this Chapter. Any transfer will be reported to the Bureau in writing or on a form provided by the Bureau and will be effective when the Bureau approves the transfer as complete. The licensee will be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee will be responsible for any license fee installments which become payable after the Bureau's approval.

6.06.070 Contents of License.

(Repealed by Ordinance No. 185495, effective July 11, 2012.)

6.06.080 License Term.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** Each license issued under this Chapter will be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter will expire on the day prior to the beginning of the new license year. In no case will a license be valid in excess of 12 months.

6.06.090 Preparation and Notice of Fee.

(Amended by Ordinance No. 185495, effective July 11, 2012.) On or before August 1 of each year, the Bureau will make a preliminary determination of each person engaged in property management activity within the District and subject to the license fee requirement and of the amount of license fee payable by the person for the next license year. On or before August 1, the Bureau will mail to each person preliminarily determined to be engaged in property management activity within the District and subject to the license fee requirement a notice which contains the following information:

- A.** That the Bureau has determined the person is engaged in property management activity within the District that is subject to the license fee requirement;
- B.** The amount of the license fee the Bureau has determined to be payable by the person for the next license year, including the data and formula used in determining the amount;
- C.** The activities which constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.1.-3.;
- D.** The activities which do not constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.4.;

- E.** The exemption provisions of Section 6.06.050 and the definition of exempt property as set out in Section 6.06.020 I. and any other provision of this Chapter applicable to the District;
- F.** That any appeal from the determinations of the Bureau as to the person's engagement in property management activity within the District, as to the person's being subject to the license fee requirement, or as to the amount of the license fee payable by the person for the next license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed. Appeal information from Section 6.06.100 will be included with the notice.

6.06.095 Preparation and Notice of Fee Adjustment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In cases in which the sections of this Chapter establishing a license fee formula for the District provide for a license fee adjustment, the Bureau, following City issuance of authorization to occupy improvements or any portion of improvements, will make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau will mail to the licensee a notice which contains the following information:

- A.** That the Bureau has determined that the licensee is subject to a fee adjustment;
- B.** The amount of the adjusted license fee the Bureau has determined to be payable by the licensee for the balance of the license year, including the data and formula used in determining the adjusted amount;
- C.** That any appeal from the determinations of the Bureau as to the person's being subject to a license fee adjustment, or as to the adjusted amount payable for the balance of the license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed.

Failure to receive notice as provided in this Section will not relieve a person from the obligation to pay an adjusted license fee payable under this Chapter.

6.06.100 Appeals.

(Amended by Ordinance Nos. 176955 and 185495, effective July 11, 2012.)

- A.** Persons to whom the Bureau mails a notice under Section 6.06.090 will be presumed to be engaged in property management activity within the district, to be subject to the license fee requirement, and to be liable for the amount indicated in the notice as the license fee payable by the person for the next license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.

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- B.** Persons to whom the Bureau mails a notice under Section 6.06.095 will be presumed to be subject to a license fee adjustment, and to be liable for the adjusted amount indicated in the notice as payable for the balance of the license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- C.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.090 on the following grounds:
- 1.** The person is not engaged in property management activity within the District as defined in Subsection 6.06.020 H.1.-4.;
 - 2.** The person is not subject to the license fee requirement because the person is exempt under Section 6.06.050;
 - 3.** The amount of license fee determined by the Bureau to be payable by the person for the next license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:
- 1.** The licensee is not subject to a fee adjustment;
 - 2.** The amount of the adjusted license fee determined by the Bureau to be payable by the person for the balance of the license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- E.** The Bureau, in its discretion, may grant an appeal without audit or may audit an appeal to determine whether the appeal should be granted. The audit may include review of such evidence as the Bureau deems appropriate. If the person appeals on the ground that the data used in determining the license fee payable are incorrect, the Bureau will not be bound by the data contained in the record sources identified in the sections of this Chapter establishing the license fee formula for the District and may consider other evidence as to data, except that the Bureau will be bound by the assessed value data as recorded in the Multnomah County assessment roll, by the square footage data as recorded in the records in the Multnomah County Office of Assessment and Taxation, by the City Bureau of Development Services written documentation of authorization to occupy improvements or portions of improvements, by the City Bureau of Development Services building permit application records of the cost of physical changes, and by the City Bureau of Development Services building permit

application records of the additional square feet of improvements, when those record sources are designated for use by a section of this Chapter establishing the license fee formula for the District. In the event the Bureau determines that an appeal should or should not be granted, in whole or in part, then the Bureau will give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination is final.

6.06.110 Registration for License.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** All persons required to obtain a license under this Chapter may register with the Bureau either in writing or on specific forms if provided by the Bureau. Registrations will be filed, together with the specified license fee installment if known or due at the time of registration:
 - 1.** Before the property manager engages in property management activities in the District; or
 - 2.** Prior to commencement of the new license year.
- B.** The Bureau may, for good cause, allow further time for filing registrations, except that no extension may be granted for more than 30 days.
- C.** The registration may contain a written declaration, verified by the property manager, that the statements made therein are true.
- D.** The Bureau will prepare information containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, file a registration or to receive notice as provided in Section 6.06.090, will not relieve a person from the obligation to pay a license fee and register for a license under this Chapter.

6.06.120 Interest on Delayed Application.

(Amended by Ordinance No. 185495, effective July 11, 2012.) When the time for filing a license registration is extended at the request of the applicant, interest at the rate specified in Subsection 6.06.150 B. will be added and paid on the license fee installment or portion thereof not paid within the time originally allowed.

6.06.140 Fee Payment in Two Installments.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Except as otherwise provided by Section 6.06.145, District license fees will be payable as follows:

- A.** Except as provided in Subsection F. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District

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will be payable in two equal installments, with the first installment due on October 1 of the license year and the second installment due on April 1 of the license year.

- B.** On or before February 15 of each license year, the Bureau will mail notice to each licensee stating the amount of the second installment payable on April 1 of the license year.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060. If the licensee has not engaged in property management activities within the District until after the beginning of the license year and a transfer has been approved, then the fee payment required will be the next installment due, provided that the property management activities within the District began no later than the billing notice of the next installment.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee shall be payable in relation to any real property which, for that license year, has been paid by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
 - 1.** The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 2.** The amount of any adjustment increase allocable to the portion of the license year between April 1 and September 30 will be due on April 1 of the license year or 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, whichever is later, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 3.** The amount of any adjustment decrease allocable to the portion of the license year between October 1 and March 31, provided that the amount previously determined to be due as of that October 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject

to any change in the adjustment in an appeal under Subsection 6.06.100 B.; and

4. The amount of any adjustment decrease allocable to the portion of the license year between April 1 and September 30, provided that the amount previously determined to be due as of that April 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.145 Fee Payment in One Installment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If a qualified contractor for a District has filed a written request approved by resolution of the City Council that the District license fee be payable in one installment, District license fees for future license fee years will be payable as follows, until such time as the City Council by resolution determines that the District license fee will be payable in two installments in accord with Section 6.06.140:

- A. Except as provided in Subsection E. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in one installment due on October 1 of the license year.
- B. Each registration for a license, will be accompanied by payment of the license fee for the license year if known.
- C. The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060.
- D. In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee will be payable in relation to any real property which, for that license year, has been included in computing the license fee payable by another licensee.
- E. In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
 1. The amount of any adjustment increase for a license year will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

2. The amount of any adjustment decrease for a license year, provided that the amount previously determined to be due has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.150 Penalty and Interest on Failure to Pay Fee.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. If a person:
 1. Fails to file a correct registration at the time required by or under this Chapter; or
 2. Fails to pay a fee installment at the time it becomes due, unless it is shown that the failure is due to reasonable cause and not due to neglect, then there will be added to the amount of a fee installment a penalty of:
 - a. 5 percent of the amount of the unpaid fee installment, but not less than \$20, if the failure is for not more than 1 month; and
 - b. Additional penalties of 5 percent of the unpaid fee installment for each additional month or fraction thereof during which the failure continues, up to a maximum of four (4) additional months.
- B. Interest will be collected on any unpaid fee installment at the rate of 10 percent simple interest per annum, computed on the balance still due at the end of each month following the date the fee installment became due. For purposes of this subsection, "unpaid fee installment" will not include penalties or interest.
- C. If a person fails to file a registration on the prescribed date, as determined with regard to any extension for filing, the Bureau may determine the fee and fee installment payable. If the Bureau determines the fee and fee installment payable, the Bureau will determine appropriate penalties and interest and will send notice to the person of the determination.
- D. The Bureau may apply payments to penalty and interest assessments before applying payments to fee installments due.

6.06.160 Civil Penalties.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may impose a civil penalty of up to \$500 for each of the following violations of this Chapter:
 - 1.** Failure to file any registration within 90 days of the Bureau's original written notice to file;
 - 2.** Failure to pay any fee installment within 90 days of the Bureau's original written notice for payment.
- B.** The Manager may only impose a civil penalty under this section if the Bureau gives notice of the potential for assessment of civil penalties for failure to comply in the original written preliminary determination notice issued under Sections 6.06.090 and 6.06.095.
- C.** The determination of a violation and imposition of a civil penalty under this Section will be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.06.180 Severability.

(Amended by Ordinance No. 185495, effective July 11, 2012) If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases will not be affected but will remain in full force and effect.

6.06.190 Clean & Safe District.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Clean & Safe District is that area within the boundaries formed by NW and SW Front Avenue on the east; SW Harrison between SW Front and SW 4th; SW 4th between SW Harrison and SW Market; SW Market between SW 4th and SW 9th; SW 9th between SW Market and SW Salmon; SW Salmon between SW 9th and SW 11th; SW 11th between SW Salmon and W Burnside; W Burnside between 11th and 9th; NW 9th between W Burnside and NW Hoyt; NW Hoyt between NW 9th and NW Broadway; and the Broadway Bridge on the north; but excluding the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.
- B.** Notwithstanding the exclusion set out in Subsection A. of this Section, beginning with the license year commencing October 1, 2004, the Clean & Safe District also will include the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and

partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.

(Amended by Ordinance Nos. 175840, 176776, 176955, 179000 and 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of business property in the Clean & Safe District in a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
- 1.** \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 - 2.** Plus \$5.52 per 290 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 - 3.** Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 - 4.** Plus 2.5 percent of the sum of Subsections A.1. through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 50 District business properties used primarily for business activities with the highest value of improvements; and
 - 5.** Less 2.5 percent of the sum of Subsections A.1 through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 51st to the 150th District business properties used primarily for business activities with the highest value of improvements;
 - 6.** Plus 15 percent of the amounts determined under subsections A.1. through 5.;
 - 7.** Plus \$.01401 (1.401 cents) per square foot of improvements and, for surface parking lots, per square foot of land square footage, as of the July 1 immediately preceding commencement of the license fee year;

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8. Plus 20.03 percent of the amounts determined under Subsections A.1. through 7. which is the inflation that occurred during license years 2001 through 2011.
9. Plus the total of the amounts determined under Subsections A.1. through 7. multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2012.

B. “Value of improvements” under this Section will be measured as follows:

1. For business property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For business property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For business property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license fee years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Review records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
 - b. For license fee years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it

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were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For business property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
 5. For business property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$73 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a business property building, structure, or addition for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvements square footage, and elevator capacity attributable to the business property building, structure, or addition will be deemed to be zero; and
 2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy the building, structure, or addition as to which the property tax assessment was cancelled, then the license fee payable for such license year will be

adjusted. For purposes of adjustment, value of improvements will be measured as set out in set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be the date the Bureau of Development Services issues a written authorization to occupy all new improvements on the business property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new improvements on the property, whichever occurs first.

6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.

(Amended by Ordinance Nos. 175840, 176955 and 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of residential property in the Clean & Safe District for a license year, other than affordable residential rental property as defined in Section 6.06.211, will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
- 1.** \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 - 2.** Plus \$5.52 per 725 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 - 3.** Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 - 4.** Plus 15 percent of the amounts determined under Subsections A.1. through 3.;
 - 5.** Plus 20.03 percent of the amounts determined under Subsections A.1. through 4. which is the inflation that occurred during license years 2001 through 2011.

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6. Plus the total of the amounts determined under Subsections A.1. through 4. multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2012.

B. “Value of improvements” under this Section will be measured as follows:

1. For residential property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For residential property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For residential property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
 - b. For license years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department

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of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For residential property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
 5. For residential property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$68 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a residential property building, structure, or addition subject to this Section, for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvement square footage, and elevator capacity attributable to the building, structure, or addition will be deemed to be zero; and
 2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy new residential improvements on the property, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of

such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be date the Bureau of Development Services issues a written authorization to occupy all new residential improvements on the property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new residential improvements on the property, whichever occurs first.

6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of affordable residential rental property in the Clean & Safe District for a license year will be the sum of the following amounts, computed separately in relation to each such residential property within the District as to which the licensee is engaged in property management activities:
- 1.** If the licensee is a not-for-profit corporation or a government entity, \$20 multiplied by the number of affordable residential dwelling units managed by the licensee; and
 - 2.** If the licensee is other than a not-for-profit corporation, \$44 multiplied by the number of affordable residential dwelling units managed by the licensee.
- B.** For purposes of this Section, “affordable residential rental property” means single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on the July 1 immediately preceding commencement of the license year, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of that July 1. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

- C. For purposes of this Section, “dwelling units” means dwelling units as defined in Chapter 33.910 of this Code.

6.06.212 Clean & Safe District Exempt Property.

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) The Clean & Safe District property management license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Subsection 6.06.020 I. and also means exempt residential property. “Exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service.

6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In computing Clean & Safe District property management license fees under Sections 6.06.200, 6.06.210, and 6.06.211, in relation to property within the District as to which the licensee is engaged in property management activities, where the property is a combination of any two or more of business property that is subject to Section 6.06.200, residential property that is subject to Section 6.06.210, residential property that is subject to Section 6.06.211, exempt property that is subject to Section 6.06.212, or property managed by a person generally exempt under Section 6.06.050 but where the exemption does not apply in relation to part of the property the person manages, the fee in relation to property management activities will be the sum of the following:

- A. For management of the part of the property that is business property subject to Section 6.06.200, the fee computed under Section 6.06.200 computed as though the entire property were such business property, multiplied by a fraction, the numerator of which is the square footage of business property improvements on the property subject to Section 6.06.200 and the denominator of which is the square footage of all improvements on the property;
- B. For management of the part of the property that is residential property subject to Section 6.06.210, the fee computed under Section 6.06.210 computed as though the entire property were such residential property, multiplied by a fraction, the numerator of which is the square footage of residential property improvements on the property subject to Section 6.06.210, and the denominator of which is the square footage of all improvements on the property; and
- C. For management of the part of the property that is residential property subject to Section 6.06.211, the fee computed under Section 6.06.211.
- D. If there are common area improvements in a property subject to this Section, then in computing square footage of business property improvements subject to

Subsection A. of this Section and of residential property improvements subject to Subsection B. of this Section, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square footage of business property improvements subject to Subsection A. of this Section or the square footage of residential property improvements subject to Subsection B. of this Section, whichever is appropriate, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

6.06.214 Clean & Safe District Square Footage of Improvements.

(Added by Ordinance No. 176262; Amended by Ordinance No. 185495, effective July 11, 2012.) For purposes of Sections 6.06.200, 6.06.210 and 6.06.213 only, the terms "square footage of improvements" and "improvements square footage" will not include:

- A. Surface area of surface parking lots;
- B. Landscaped area;
- C. Unenclosed sidewalk, plaza, and courtyard area;
- D. Below grade parking area (but, for parking structures that have above grade parking, will include both any at grade parking area within the parking structure and all above grade parking area within the parking structure); and
- E. Other below grade area unless improved for occupancy by employees or tenants.

6.06.215 Pledging of Clean & Safe District License Fee Revenues.

(Amended by Ordinance Nos. 176776 and 185495, effective July 11, 2012.)

- A. In addition to the uses of District revenues set out in Section 6.06.010, the City, if so requested in writing by a qualified contractor and approved by the City Council, may pledge Clean & Safe District license fee revenues as security for City debt incurred to finance the design, acquisition, construction, and installation of improvements within the District and may pledge Clean & Safe District license fee revenues to a qualified contractor or its designee in order that the contractor or designee may have revenues sufficiently ensured to enable the contractor or designee to incur debt to finance the design, acquisition, construction, installation, operation and maintenance of improvements within the District. Any such pledge of Clean & Safe District license fee revenues will be subject to any limitations set out in Oregon law or in the City Charter. In addition, no City pledge or combination of pledges under this Section for City payment of actual debt service or to enable the qualified contractor or its designee to make payments of actual

debt service, but not including pledges to provide excess coverage for City payment of actual debt service or to enable the qualified contractor or its designee to provide excess coverage for payments of actual debt service, at any time will exceed one-third of the Clean & Safe District license fee revenues.

- B.** In making a request under Subsection A. of this Section, the qualified contractor will submit to the City a description of the improvements to be funded in whole or in part with the proceeds of the debt financing. The request also will include a description of any previously provided Clean & Safe District services proposed to be reduced or not provided due to the pledge of the District license fee revenues.
- C.** Notwithstanding Section 6.06.010, if the City pledges District license fee revenues for City debt incurred in accord with this Section, the City will retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

6.06.216 Lighting Revenues and Program.

(Added by Ordinance No. 176776; amended by Ordinance Nos. 179000 and 185495, effective July 11, 2012.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8.
- B.** As used in this Chapter, “lighting program” means the design, acquisition, construction, installation, operation, and maintenance of all components, including but not limited to electrical connections and decorative lighting fixtures, necessary for a seasonal and decorative lighting system within portions of the District.
- C.** Notwithstanding Section 6.06.010, lighting revenues will be used only:
 - 1.** For the lighting program, including but not limited to the pledging of such revenue as provided under Section 6.06.215;
 - 2.** For a proportionate share of the Bureau’s costs of administration of the license fee directed by the City Council to be recovered from license fee revenues, based on the ratio of lighting revenues to total District revenues; or
 - 3.** If a qualified contractor determines that lighting revenues in a license year will exceed or have exceeded the costs and expenses of the lighting program in that license year and that the excess revenues will not be needed to fund a prudent reserve or for the costs and expenses of the

lighting program in future license years, then for distribution by the qualified contractor to the payers of the lighting revenues of that portion of the excess determined by the qualified contractor not to be so needed, in proportion to the amount paid by each payer in the license year that produced the excess.

6.06.220 Clean & Safe District Periodic Sunset Review.

(Amended by Ordinance No. 185495, effective July 11, 2012.) During 2011 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Clean & Safe District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Clean & Safe District licensees under this Chapter.

6.06.230 Clean & Safe District Early Termination.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before March 30 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Clean & Safe District property management license fee during that year, then the license fee for the Clean & Safe District will be terminated as of September 30 of that license fee year except that the fee will continue, at a rate reduced equally proportionally as to each licensee, to the extent necessary to meet any City pledge obligations incurred as authorized by Section 6.06.215.

6.06.240 Request Annual CPI Increase to be Different than Calculated.

(Added by Ordinance No. 185495, effective July 11, 2012.)

- A.** The contractor's Board of Directors may recommend that the annual CPI adjustment be set to an amount other than the CPI calculation, but not less than zero for a license year.
 - 1.** The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Bureau no later than June 10th. The resolution must contain the following information:
 - a.** The reason why the board is requesting the annual CPI adjustment to be set at a rate that is different than calculated;
 - b.** What the CPI adjustment amount for the license year should be; and

- c. The impact on the upcoming budget that will result if a different CPI adjustment is made, specifically as it relates to contract employee wages and contract service levels.
 - d. The impact to District services.
 2. The Revenue Bureau will review the information from the contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower CPI adjustment. The Revenue Bureau will make a recommendation to City Council if a different CPI adjustment is warranted for the upcoming license year.
 3. City Council must approve a different CPI adjustment prior to August 1st;
 4. An approved different CPI adjustment will apply to the license year that begins on October 1st.
- B.** Once one or more different CPI adjustments have been approved by City Council, the Revenue Bureau has authority to adjust the CPI component in the fee rate formulas in Subsections 6.06.200 A.9., and 6.06.210 A.6. The Revenue Bureau will document via written policy all changes to the CPI calculation as a result of City Council approval and this policy will supersede the calculation defined in Subsection 6.06.020 E.

6.06.250 Lloyd Business District.

The Lloyd Business District is that area within the boundaries formed by the Willamette River, from the Broadway Bridge to the point just south of the Oregon Convention Center at which NE Lloyd Boulevard reaches the River; NE Lloyd Boulevard, from the Willamette River to NE 16th Avenue; NE 16th Avenue curving into NE 15th Avenue, from NE Lloyd Boulevard to NE Halsey Street; NE Halsey Street, from NE 15th Avenue to NE Grand Avenue; NE Grand Avenue, from NE Halsey Street to NE Broadway; and NE Broadway, from NE Grand Avenue to the Willamette River.

6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.

(Amended by Ordinance Nos. 176262, 176955, 182925 and 185495, effective July 11, 2012.)

- A.** Except as set out in Subsection B. of this Section, the fee established by this Chapter for management of business and residential property in the Lloyd Business District for a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:

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1. \$.30 (cents) per \$1,000 of assessed value of improvements for the 1999-2000 property tax assessment year;
 2. Plus \$1.60 per 290 square feet of improvements as of July 1, 1999;
 3. Plus \$.015 (cents) per square foot of land as of July 1, 1999.
- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 1999 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 1999, the fee established by this Chapter, for management of such property in the Lloyd Business District in a license year, will be as provided in this Subsection:
1. During the period between the date the City Bureau of Development Services issues an authorization, documentable by written documentation, to occupy the improvements, or during the period between 180 days after the date the Bureau of Development Services issues such an authorization to occupy any portion of the improvements that was not occupied while the physical changes were being made, and the date of beginning of the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee otherwise payable during the period will be adjusted to the following amount, prorated based on the number of days of the period in the applicable license year:
 - a. The amount determined under Subsection A.1., plus \$.30 (cents) per \$1,000 of the cost of the physical changes, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes;
 - b. Plus the amount determined under Subsection A.2., plus \$1.60 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of Development Services records of building permits issued authorizing or in association with the physical changes;
 - c. Plus the amount determined under Subsection A.3.
 2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee will be:

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- a. \$.30 (cents) per \$1,000 of assessed value of improvements for the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - b. Plus \$1.60 per 290 square feet of improvements, as of July 1 of the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - c. Plus the amount set out in Subsection A.3.
- C. In computing the fee as provided in Subsection A. or B.:
 1. In relation to real property within the Lloyd Business District as to which a licensee is engaged in property management activities, where the property in part is exempt residential property or religious organization property or
 2. In relation to persons generally exempt from the license requirements of this Chapter under Section 6.06.050 but where the exemption does not apply to property management activities in relation to part of the property they manage, the fee in relation to property management activities as to such real property will be the fee computed as though management of the entire property were subject to the fee multiplied by a fraction, the numerator of which is the square footage of the area in which the licensee is engaged in property management activities subject to the fee (including land or improvements, as applicable) and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable).
- D. Notwithstanding the amount of the fee computed under Subsections A., B., and C., of this Section, in no case will the fee payable by a licensee, in relation to all real property within the Lloyd Business District as to which the licensee is engaged in property management activities, exceed \$20,000.
- E. The Lloyd Business District license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Section 6.06.020 I. and also means exempt residential property. For purposes of this Section, “exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service; single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates

that are considered affordable, under federal affordability standards in effect on July 1, 1997, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of July 1 of each year. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code, as in effect on January 1, 1997; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies, as in effect on January 1, 1997, or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

F. For purposes of this Section only, the terms "square feet of improvements" and "square footage of improvements" will not include:

1. Surface and structured parking lot area;
2. Landscaped area;
3. Unenclosed sidewalk, plaza, and courtyard area; and
4. Below grade area unless improved for occupancy by employees or tenants.

6.06.270 Revisions to License Fee Year Schedule.

(Amended by Ordinance Nos. 178073 and 185495, effective July 11, 2012.) Notwithstanding that Sections 6.06.010 through 6.06.180 are based on a license fee year of October 1 through September 30, the license fee year for the Lloyd Business District will be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the due dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd Business District, will be February 15 and September 15 except that the August 1 date set out in Section 6.06.090 will be January 5. Any other dates are also changed to provide at least 30 days notice before a due date and may be clarified by the Revenue Bureau in a written policy.

6.06.280 Lloyd Business District Periodic Sunset Review.

(Replaced by Ordinance No. 178073; amended by Ordinance No. 185495, effective July 11, 2012.) During 2013 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Lloyd Business District property management license fee should be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Lloyd Business District licensees under this Chapter.

6.06.290 Lloyd Business District Early Termination.

(Added by Ordinance No. 178073; amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before July 31 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Lloyd Business District property management license fee during that year, then the license fee for the Lloyd Business District will be terminated as of January 31 of that license fee year.

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- C.** Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.
- D.** Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.
- E.** No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

7.02.300 Certificates of Compliance.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A.** Within 60 days of beginning business, the taxfiler must complete a registration form. The Bureau may issue or otherwise provide access to either an electronic or printed “Certificate of Compliance” upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year’s tax filing the Bureau may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City’s Business License Tax Law as of a particular date.
- B.** The City’s issuance of a “Certificate of Compliance” does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C.** A taxfiler is deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

7.02.310 Duplicate Certificates of Compliance.

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

7.02.330 Account Merger or Division.

When two or more taxfilers combine by merger or acquisition into one reporting entity, or one taxfiler divides or spins off into more than one reporting entity, the business tax

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for the license tax year after the combination or division will be computed upon the incomes earned by all entities for all tax periods required to be reported under state and federal tax laws and regulations.

7.02.350 License Tax Year Term.

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

7.02.400 Exemptions.

(Amended by Ordinance Nos. 183727 and 185394, effective July 6, 2012.) The Bureau may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** The following incomes of an individual:
 - 1.** Income from sales, exchanges or involuntary conversions of a primary residence;

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2. Income from the sale of personal property acquired for household or other personal use by the seller;
 3. Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
 4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- G.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- H.** Gross incomes subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, income which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

7.02.500 Tax Rate.

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B. and C. of this section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the

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funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.

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

7.02.510 Registration Form and Tax Return Due Dates.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A.** All persons subject to the requirements of this Chapter must register with the Bureau on a form provided or approved by the Bureau. Thereafter, taxfilers must file tax returns with the Bureau. The following timing requirements apply:
 - 1.** Registration forms must be filed within 60 days of the person beginning business in the City.
 - 2.** Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Bureau must conform to the due date under Oregon tax law.
- B.** The Bureau may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.
- C.** Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D.** The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

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

7.02.530 Schedule for Payment of Estimated Tax.

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

- A.** One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and
- B.** One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C.** One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and

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

7.02.545 Tax Returns.

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

7.02.550 Presumptive Tax.

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

7.02.560 Payment Plan Fee.

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

7.02.600 Income Determinations.

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Bureau determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Bureau’s discretion. For tax years beginning on or after January 1, 2007, the owners compensation deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the owners compensation deduction will be indexed as previously described.
- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation’s income, determined without

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deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.

1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.
 3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible

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personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.

I. Net Operating Loss. In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.

1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.
2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

(Amended by Ordinance Nos. 182427 and 184597, effective June 17, 2011.)

- A.** "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer's business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to

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apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.

- B.** “Business activity” means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.
- C.** In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler’s business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D.** In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:

 - 1.** Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
 - 2.** Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Bureau regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.

- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Bureau to permit the taxfiler to:
- 1.** Utilize the method of apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
 - 2.** Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

7.02.620 Changes to Federal and/or State Tax Returns.

- A.** If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Bureau within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B.** The Bureau may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C.** The Bureau may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Bureau within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

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

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- B.** Net income for such taxfiler must include apportioned income arising from all contracts completed during such license tax year.

7.02.700 Penalties.

- A.** A penalty will be assessed if a person:
- 1.** Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
 - 2.** Fails to pay the tax when due.
 - 3.** The penalty under Subsection A. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
 - c.** An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
- 1.** Fails to file a tax return by the extended due date; or
 - 2.** Fails to pay the tax liability by the extended due date.
 - 3.** The penalty under Subsection B. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
- 1.** Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or

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

7.02.710 Interest.

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.

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- C. Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:
1. The total tax liability of the prior license tax year was less than \$1,000; or
 2. An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
 3. An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D. For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Bureau by the due date of the fourth quarterly payment, the Bureau may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E. For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F. Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G. Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Bureau, unless specifically provided for by written policy.

7.02.715 Payments Applied.

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

7.02.720 Interest on Refunds.

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

- A. Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:

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

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

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

7.02.800 Refundable Credit.

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

- A. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.

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- B. “Disconnected Youth”** means a youth that is
1. a resident of the City of Portland,
 2. is 16-24 years old on the date on which the youth begins working with the local business,
 3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
 4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or
 - e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D. “Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. “Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Bureau to act as the Youth Certifying Agency for the purpose of this program.
- F. “2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.

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- G.** “**2006 Tax Year**” means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H.** “**Non-exempt**” means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A.** For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B.** The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C.** A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D.** Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.
- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business’ fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

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

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

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

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

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

7.02.840 Frivolous Filing.

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

7.02.850 Hacking.

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

7.02.860 First Year Adjustment Credit.

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

- A.** Any taxfiler that was assessed a "First Year Adjustment" fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B.** If the amount of the credit cannot be determined from Bureau records, a rebuttable presumption exists that the credit amount is equal to the amount of the

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minimum fee payment due for the tax year in which the City assessed the “First Year Adjustment” fee. A taxfiler may present evidence to the Bureau showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.

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

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

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

- A.** An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of
 - 1.** \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or
 - 2.** 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B.** For purposes of this credit, the “first tax year” would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
 - 1.** The Investment Management Firm was not doing business in the City of Portland in the prior tax year or
 - 2.** The prior tax year began prior to January 1, 2009.
 - a.** In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - b.** In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the

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credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.

- c.** In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
- d.** In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.

C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:

- 1.** At least 90 percent of the firm’s gross income for the tax year must consist of fees that are

 - a.** Received from Diversified Investing Fund or from persons unrelated to the firm, and
 - b.** Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
- 2.** At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.
- 3.** A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner’s Compensation Deduction in Section 7.02.600.
- 4.** The firm was physically located within the City of Portland boundaries at the end of the tax year.

D. The terms “Diversified Investing Fund” and “Qualified Investment Securities” have the meanings as defined by Administrative Rule.

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- E.** This credit is available for tax years beginning on or after January 1, 2009.

7.02.880 Youth Employment Credit Programs.

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A.** For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.

- 1. “Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
 - a.** has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 - b.** is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 - c.** has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County’s Business Income Tax Law.
 - 2. “Non-exempt”** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
 - 3. “Tax Year”** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.
 - 4. “Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.
- B.** Credits issued under a Youth Employment Credit program will have the following features:
- 1.** Credits will be non-refundable;

2. There will be a maximum number of credits per tax year per program;
 3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
 4. No individual credit will exceed \$500; and
 5. Credit certificates or letters will be provided by the Revenue Bureau to be attached to the tax return claiming the credit(s).
- C. Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

7.02.881 Foster Youth Employment Opportunity Credit.

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B. For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C. To qualify for the credit, a business must:
1. Employ a certified foster youth.
 - a. If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or
 - b. If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.

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2. Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.
 - a. A copy of the youth's DHS certification;
 - b. Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and
 - c. Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.
3. The Revenue Bureau will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

7.02.882 Youth Career Readiness Credit.

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. A Youth Employment Credit, known as the Youth Career Readiness Credit, is available for tax years 2011 and 2012 as a pilot program with the goal to increase the number of students who graduate from high school "career-ready" by expanding the number of meaningful career-related learning experiences between the private sector and schools.
- B. For purposes of the Youth Career Readiness Credit:
 1. **"Career-Readiness"** involves three major skill areas: core academic skills and the ability to apply those skills to concrete situations in order to function in the workplace and in routine daily activities; employability skills (such as critical thinking and responsibility) that are essential in any career area; and technical, job-specific skills related to a specific career pathway. These skills have been emphasized across numerous pieces of research and allow students to enter true career pathways that offer family-sustaining wages and opportunities for advancement.
 2. **"Career-Related Learning Experiences"** (CRLEs) are structured student activities in the community, the workplace or in the school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning and also help students to clarify career goals and usually take form as "Career

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Awareness Activities”, “Career Exploration Activities” and “Career Preparation Activities”.

3. **“Career Awareness Activities”** include workplace tours and field trips, career and job fairs and guest speakers.
 4. **“Career Exploration Activities”** include job shadowing, informational and mock interviews, career mentoring and enterprise and community-based projects.
 5. **“Career Preparation Activities”** include work experience, internships and apprenticeships.
 6. **“CRLE Certifying Agency”** means the partner agency that has entered into an agreement or other memorandum of understanding with the City to act as the certifying agency for CRLE programs and will issue the credit certificate to each qualifying business program.
- C. For each tax year, 75 non-refundable \$500 credits are available on a first-come, first-served basis, to Local Businesses that provide substantial career-readiness activities to high school students. An individual business can claim credits for each separate career readiness activity, up to a maximum of four (4) credits. However, no more than two (2) credits can be claimed for Career Awareness Activities.
- D. To qualify for the credit, a business must:
1. Provide a Career Awareness, Career Exploration or Career Preparation activities program with direct costs of more than \$2,500 or in-kind value of more than \$5,000.
 2. The CRLE program being provided by the business must be certified by the CRLE Certifying Agency.
 3. Complete the certified program as agreed to obtain the credit certificate from the CRLE Certifying Agency.

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Chapter 7.03

TEMPORARY BUSINESSES

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

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

7.03.010 Temporary Businesses Exempt from Business License Law.

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

7.03.020 Fees for Revenue.

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

7.03.030 Temporary Businesses Defined.

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

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

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

7.03.040 License Required; Fees.

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

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

TITLE 7
BUSINESS LICENSES

Chapter 7.04

ADMINISTRATION

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

Chapter 7.06

LICENSE REQUIREMENTS & APPLICATIONS

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

Chapter 7.08

LICENSE FEES

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

Chapter 7.10

VIOLATIONS

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

7.12.050 Contents of Franchise.

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

7.12.060 Payment of Privilege Tax Required.

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

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

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

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

TITLE 7

BUSINESS LICENSES

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

7.12.070 Privilege Tax Applicable to Other Cases.

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

7.12.080 Report of Earnings.

(Replaced by Ordinance No. 164761; amended by Ordinance No. 184882, effective September 21, 2011.)

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

7.12.090 Time Payment of the Privilege Tax.

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

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

TITLE 14
PUBLIC ORDER AND POLICE

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Chapter 14B.40

**IMPOUNDMENT AND
INVESTIGATION FOR DUI**

Sections:

- 14B.40.010 Impoundment.
- 14B.40.020 Investigation.
- 14B.40.030 Administration and Fees.

14B.40.010 Impoundment.

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

14B.40.020 Investigation.

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

14B.40.030 Administration and Fees.

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

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Chapter 14B.50

FORFEITURE

Sections:

- 14B.50.010 Certain Vehicles as Nuisances.
- 14B.50.020 Forfeiture Proceedings.
- 14B.50.030 Prostitution.
- 14B.50.035 Disbursement of Proceeds from Prostitution Forfeiture.
- 14B.50.040 Gambling.
- 14B.50.050 Money Laundering.
- 14B.50.055 Distribution of Proceeds from Money Laundering Forfeiture.

14B.50.010 Certain Vehicles as Nuisances.

(Amended by Ordinance Nos. 184197 and 184648, effective June 8, 2011.) The following motor vehicles are hereby declared to be nuisances and subject to seizure and *in rem* civil forfeiture:

- A. A motor vehicle operated by a person whose operator's license is criminally suspended or revoked under ORS 811.182.
- B. A motor vehicle used to commit Driving Under the Influence of Intoxicants in violation of ORS 813.010, to the extent forfeiture of such vehicle is permitted under state law.
- C. A motor vehicle used to commit prostitution as defined in ORS 167.007(1)(b).
- D. A motor vehicle used to commit Fleeing or Attempting to Elude Police under ORS 811.540.

14B.50.020 Forfeiture Proceedings.

(Amended by Ordinance Nos. 180260 and 184197, effective October 27, 2010.) All civil forfeitures conducted pursuant to this Chapter are subject to the procedures and limitations set forth in ORS Chapter 131A except that the distribution of proceeds in 131A.360 is not applicable.

14B.50.030 Prostitution.

(Amended by Ordinance Nos. 184197 and 184648, effective June 8, 2011.) Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.002 to 167.027, excluding 167.007(1)(a) is hereby declared to

be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020.

14B.50.035 Disbursement of Proceeds from Prostitution Forfeiture.

(Replaced by Ordinance No. 184648, effective June 8, 2011.)

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

 - 1.** To the satisfaction of any foreclosed liens, security interests, and contracts, in order of their priority;
 - 2.** To the seizing and forfeiting agencies for actual and reasonable expenses related to the costs of the forfeiture proceeding, including but not limited to

 - a.** the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, such as costs, disbursements and attorney fees as defined in ORCP 68 A;
 - b.** special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle, and storage or maintenance of the seized property; and
 - c.** expenses arising in connection with the sale of any forfeited property.
 - 3.** The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this Subsection.
- C.** After payment of costs under Subsection 14B.50.035 B., the forfeiting agency shall use seventy-five percent of the remaining proceeds to provide services, including but not limited to shelter services, for victims of human trafficking. The remaining twenty-five percent of the proceeds from any assets forfeited under or Section 14B.50.030 may be used by the Portland Police Bureau for law

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enforcement purposes relating to the provisions of ORS 167.002, 167.007(1)(b), 167.012 and 167.017.

14B.50.040 Gambling.

Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.117 to 167.166 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14B.50.020.

14B.50.050 Money Laundering.

(Added by Ordinance No. 185503, effective August 17, 2012.) Conduct involving a violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 164.170 and 164.172 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of Section 14B.50.020.

14B.50.055 Distribution of Proceeds from Money Laundering Forfeiture.

(Added by Ordinance No. 185503, effective August 17, 2012.)

- A.** Forfeiture proceeds arising out of the prohibited conduct as defined by Section 14B.50.050 shall be separately accounted for.
- B.** After entry of a judgment of forfeiture for any assets forfeited under Section 14B.50.050, the forfeiting agency shall distribute or apply the proceeds in the following order:
 - 1.** To the satisfaction of any foreclosed liens, security interests, and contracts, in order of their priority;
 - 2.** To the seizing and forfeiting agencies for actual and reasonable expenses related to the costs of the forfeiture proceeding, including but not limited to
 - a.** the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, such as costs, disbursements and attorney fees as defined in ORCP 68 A;
 - b.** special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle, and storage or maintenance of the seized property; and

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- c.** expenses arising in connection with the sale of any forfeited property.
- C.** To the extent not addressed by a claim filed under ORS 131A.165, restitution awarded under ORS 137.103 et seq. and compensatory fines awarded under ORS 137.101 shall be paid to any victim of the prohibited conduct or similar crime.
- D.** After payment of costs under Subsection 14B.50.055 B. and C., the forfeiting agency shall use any remaining proceeds for law enforcement purposes.

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Regulatory Schemes and Business

Chapter 14B.60

**CHRONIC
NUISANCE PROPERTY**

Sections:

- 14B.60.010 Definitions.
- 14B.60.020 Violation.
- 14B.60.030 Procedure.
- 14B.60.040 Commencement of Actions; Remedies; Burden of Proof.
- 14B.60.050 Summary Closure.
- 14B.60.060 Enforcement.
- 14B.60.070 Attorney Fees.

14B.60.010 Definitions.

A. Chronic Nuisance Property.

1. Property on which three or more Nuisance Activities exist or have occurred during any thirty (30) day period; or,
2. Property on which or within 200 feet of which any Person Associated With the Property has engaged in three or more Nuisance Activities during any thirty (30) day period; or,
3. Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or 475.940 through 475.995 has occurred within the previous thirty (30) days, and the Chief of Police or a Precinct Commander has determined that the search warrant was based on evidence of continuous or repeated Nuisance Activities at the Property; or,
4. Property on which continuous or repeated Nuisance Activities as defined in Portland City Code 14B.60.010 D.7.,8.,13., and/or 14. exist or have occurred.

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- B.** Commissioner in Charge. The Portland City Commissioner assigned responsibility for the Bureau of Police.
- C.** Control. The ability to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.
- D.** Nuisance Activities. Any of the following activities, behaviors or conduct:
1. Harassment as defined in ORS 166.065(1)(a).
 2. Intimidation as defined in ORS 166.155 through 166.165.
 3. Disorderly conduct as defined in ORS 166.025.
 4. Assault or menacing as defined in ORS 163.160 through ORS 163.190.
 5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through ORS 163.445.
 6. Public indecency as defined in ORS 163.465.
 7. Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017.
 8. Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482.
 9. Offensive littering as defined in ORS 164.805.
 10. Criminal trespass as defined in ORS 164.243 through 164.265.
 11. Theft as defined in ORS 164.015 through 164.140.
 12. Arson or related offenses as defined in ORS 164.315 through 164.335.
 13. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, and/or 475.940 through 475.995.
 14. Illegal gambling as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127.
 15. Criminal mischief as defined in ORS 164.345 through 164.365.

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- 16.** Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct.
 - 17.** Fire or discharge of a firearm as defined in Portland City Code 14A.60.020.
 - 18.** Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.
 - 19.** Unlawful drinking in public places as defined in Portland City Code 14A.50.010.
 - 20.** Curfew as defined in Portland City Code 14A.80.010.
 - 21.** Indecent exposure as defined in Portland City Code 14A.40.030.
- E.** Person. Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in the City of Portland.
- F.** Person Associated With. Any Person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a Property or Person present on a Property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a Property, Person in Charge, or owner of a Property.
- G.** Person in Charge. Any Person, in actual or constructive possession of a Property, including but not limited to an owner or occupant of Property under his or her ownership or Control.
- H.** Precinct Commander. Any Commander of the Portland Police Bureau in charge of a Precinct.
- I.** Property. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For Property consisting of more than one unit, Property may be limited to the unit or the portion of the Property on which any Nuisance Activity has occurred or is

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occurring, but includes areas of the Property used in common by all units of Property including without limitation other structures erected on the Property and areas used for parking, loading and landscaping.

14B.60.020 Violation.

- A.** Any Property determined by the Chief of Police or a Precinct Commander to be Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.
- B.** Any Person in Charge of Property determined by the Chief of Police or a Precinct Commander to be a Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.

14B.60.030 Procedure.

- A.** When the Chief of Police or a Precinct Commander receives two or more police reports documenting the occurrence of Nuisance Activities on or within 200 feet of a Property, the Chief of Police or Precinct Commander shall independently review such reports to determine whether they describe the activities, behaviors or conduct enumerated under Portland City Code 14B.60.010 D.1.-21. Upon such a finding, the Chief of Police or a Precinct Commander may notify the Person in Charge in writing that the Property is in danger of becoming Chronic Nuisance Property. The notice shall contain the following information:
 - 1.** The street address or a legal description sufficient for identification of the Property.
 - 2.** A statement that the Chief of Police or Precinct Commander has information that the Property may be Chronic Nuisance Property, with a concise description of the Nuisance Activities that exist, or that have occurred. The Chief of Police or the Precinct Commander shall offer the Person in Charge an opportunity to propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.
 - 3.** Demand that the Person in Charge respond to the Chief of Police or the Precinct Commander within ten (10) days to discuss the Nuisance Activities.
- B.** When the Chief of Police or Precinct Commander receives a police report documenting the occurrence of additional Nuisance Activity on or within 200 feet of a Property after notification as provided by Portland City Code 14B.60.030

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A.1.; or, in the case of Chronic Nuisance Property as defined in Portland City Code 14B.60.010 A.3. or 4., for which notice under Portland City Code 14B.60.030A is not required, the Chief of Police or the Precinct Commander shall notify the Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property. The notice shall contain the following information:

1. The street address or a legal description sufficient for identification of the Property.
 2. A statement that the Chief of Police or the Precinct Commander has determined the Property to be Chronic Nuisance Property with a concise description of the Nuisance Activities leading to his/her determination.
 3. Demand that the Person in Charge respond within ten (10) days to the Chief of Police or the Precinct Commander and propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.
 4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the Person in Charge at the address of the Property determined to be a Chronic Nuisance Property, or such other place which is likely to give the Person in Charge notice of the determination by the Chief of Police or the Precinct Commander.
 5. A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the Property is located, and/or the occupant at the address of the Property, if these Persons are different than the Person in Charge, and shall be made either personally or by first class mail, postage prepaid.
- C. If the Person in Charge fails to respond as required by Portland City Code 14B.60.030 B.3., the Chief of Police or the Precinct Commander may refer the matter to the Commissioner in Charge and the City Attorney. Prior to referring the matter to the Commissioner in Charge and the City Attorney, the notice required by Portland City Code 14B.60.030 B. shall also be posted at the property.
- D. If the Person in Charge responds as required by Portland City Code 14B.60.030 B.3. and agrees to abate Nuisance Activities giving rise to the violation, the Chief of Police or the Precinct Commander may postpone referring the matter to the Commissioner in Charge and the City Attorney. If an agreed course of action does not result in the abatement of the Nuisance Activities within sixty (60) days; or, if no agreement concerning abatement is reached within sixty (60) days, the

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Chief of Police or the Precinct Commander may refer the matter to the Commissioner in Charge and the City Attorney.

- E.** When a Person in Charge makes a response to the Chief of Police or the Precinct Commander as required by Portland City Code 14B.60.030 A.3. or B.3. any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any Nuisance Activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.
- F.** The failure of any Person to receive notice as provided by Portland City Code 14B.60.030 A. or B. shall not invalidate or otherwise affect the proceedings under this Chapter.

14B.60.040 Commencement of Actions; Remedies; Burden of Proof.

- A.** The Commissioner in Charge may authorize the City Attorney to commence legal proceedings in the Circuit Court to abate Chronic Nuisance Property and to seek closure, the imposition of civil penalties against any or all of the Persons in Charge thereof, and, any other relief deemed appropriate.
- B.** If the Court determines Property to be Chronic Nuisance Property, the Court shall order that the Property be closed and secured against all unauthorized access, use and occupancy for a period of not less than six (6) months, nor more than one (1) year. The order shall be entered as part of the final judgment. The Court shall retain jurisdiction during any period of closure.
- C.** If the Court determines a Property to be Chronic Nuisance Property, the Court may impose a civil penalty of up to \$100 per day for each day Nuisance Activities occurred on the Property, following notice pursuant to Portland City Code 14B.60.030 B.; or, the cost to the City to abate the Nuisance Activities at the Property whichever is greater. The amount of the civil penalty shall be assessed against the Person in Charge and/or the Property and may be included in the City's money judgment.
- D.** If satisfied of the good faith of the Person in Charge, the Court shall not award civil penalties if the Court finds that the Person in Charge at all material times could not, in the exercise of reasonable care or diligence, determine that the Property had become Chronic Nuisance Property.
- E.** In establishing the amount of any civil penalty, the Court may consider any of the following factors and shall cite those found applicable:

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1. The actions taken by the Person in Charge to mitigate or correct the Nuisance Activities at the Property;
 2. The financial condition of the Person in Charge;
 3. Repeated or continuous nature of the problem;
 4. The magnitude or gravity of the problem;
 5. The cooperation of the Person in Charge with the City;
 6. The cost to the City of investigating and correcting or attempting to correct the Nuisance Activities;
 7. Any other factor deemed relevant by the Court.
- F.** The City shall have the initial burden of proof to show by a preponderance of the evidence that the Property is Chronic Nuisance Property.
- G.** Evidence of a Property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible.

14B.60.050 Summary Closure.

Any summary closure proceeding shall be based on evidence showing that Nuisance Activities exist or have occurred on the Property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In the event of summary closure, the City is not required to comply with the notification procedures set forth in Portland City Code 14B.60.030 A. and B.

14B.60.060 Enforcement.

- A.** The Court may authorize the City to physically secure the Property against all unauthorized access, use or occupancy in the event that the Person in Charge fails to do so within the time specified by the Court. In the event that the City is authorized to secure the Property, the City shall recover all costs reasonably incurred by the City to physically secure the Property as provided by this Section. The City Bureau(s) physically securing the Property shall prepare a statement of costs and the City shall thereafter submit that statement to the Court for its review as provided by ORCP 68.

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- B.** The Person in Charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the Property after either:
- 1.** A Person in Charge received notice of the determination of the Chief of Police or any Precinct Commander pursuant to Portland City Code 14B.60.030 B.; or
 - 2.** A Person in Charge received notice of an action brought pursuant to Portland City Code 14B.60.050.
- C.** A lien shall be created against the Property for the amount of the City's money judgment. In addition, any Person who is assessed penalties under Portland City Code 14B.60.040 C. and/or costs under Portland City Code 14B.60.060 A. shall be personally liable for payment thereof to the City. Judgments imposed by this Chapter shall bear interest at the statutory rate.

14B.60.070 Attorney Fees.

The Court may, in its discretion, award attorneys' fees to the prevailing party.

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Chapter 14B.70

SHORT TERM MOTEL RENTAL

Sections:

- 14B.70.010 Definitions.
- 14B.70.020 Rental of Rooms.
- 14B.70.030 Procedure.
- 14B.70.040 Appeals Process.
- 14B.70.050 City Remedies.

14B.70.010 Definitions.

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

- A.** Person in control: an employee or owner with the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on or at the motel, hotel, inn, or other facility designed for overnight rental.
- B.** Customer: any person who pays valuable consideration to occupy any room or rooms in a motel, hotel, inn, or other facility designed for overnight rental.
- C.** Employee: any officer, director, agent, or employee of a motel, or any independent contractor who works on or at the rental property.
- D.** Fee: the consideration charged by the operator for the occupancy of space in a motel, valued in money, goods, labor, credits, or other consideration.
- E.** Motel: any structure, or portion of any structure, which is occupied or intended or designed for dwelling, lodging, or sleeping purposes and includes but is not limited to any hotel, inn, tourist home, studio hotel, bachelor hotel, lodging house, and rooming house.
- F.** Occupancy: the use or possession, or the right to the use or possession, for lodging or sleeping purposes of any room or rooms in a motel.
- G.** Operator: the person who is the proprietor of the motel in any capacity.
- H.** Owner: any person, agent, firm, or corporation having a legal or equitable interest in a motel, and includes, but is not limited to a mortgagee in whom possession is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the property.

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- I.** Renting by the hour: the use or possession for lodging or sleeping purposes of any room for an amount less than one-half of the minimum daily rental rate.

14B.70.020 Rental of Rooms

- A.** A motel becomes a public nuisance when any motel employee or person in control permits on three or more occasions during any thirty (30) day period or twelve (12) or more occasions during any twelve (12) month period, a customer to rent a room designed for dwelling, lodging, or sleeping purposes, by the hour, or rents the same room more than twice within a 24 hour period.
- B.** Any motel which becomes a public nuisance is subject to the remedies provided for in this Chapter.

14B.70.030 Procedure.

When the City believes the motel property has become a public nuisance as defined in this Chapter, the City shall attempt to notify the owner(s) of record and the person, firm, or corporation in possession of the property, in writing that the property has been determined to be a public nuisance. The notice shall contain the following information:

- A.** The street address and a legal description sufficient for identification of the property.
- B.** A statement that the City has found the property to be a public nuisance, together with a concise description of the events or conditions leading to this finding, including the date and time of the events or conditions.
- C.** Demand that the owner or rightful possessor of the motel property respond within twenty (20) days to the Chief of Police or the Precinct Commander and appeal the City's determination or propose an abatement plan that the Chief of Police or the Precinct Commander agrees will abate the nuisance activities giving rise to the violation.
- D.** The City shall attempt to serve a copy of the notice personally on the owner, rightful possessor, or agent, if known, at least ten (10) days before the commencement of any judicial action by the City. In addition, the notice shall be mailed certified mail, return receipt requested, postage prepaid, and addressed to the owner of the business at the address of the property believed to be a public nuisance and to such other address as is shown on Multnomah County tax rolls, or such other place which is believed to give the owner of the business and of the property actual notice of the City's determination.

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- E.** The failure of any person or owner to receive actual notice of the funding of a public nuisance as defined in this Chapter shall not invalidate or otherwise affect the proceedings under this Chapter.

14B.70.040 Appeals Process

- A.** If the owner, business, agent, or rightful possessor of the property disagrees with the City's findings and determination, the owner or other rightful possessor may file an appeal with Bureau of Police within twenty (20) days of the City's determination that the motel property is a public nuisance.
- B.** The request for the appeal shall be in writing, and include the owner or rightful possessor's full name, street address and legal description sufficient for identification of the property determined a public nuisance, and the reason(s) for disagreement with the City's findings and determination.
- C.** Should the owner or rightful possessor of the property be dissatisfied with the outcome of the appeal, the owner or rightful possessor may issue a further appeal to the City Code Hearings Officer pursuant to Chapter 22.10 of this Code.

14B.70.050 City Remedies.

- A.** The Chief of Police or the Precinct Commander may refer the matter to the City Attorney where:
 - 1.** The owner or rightful possessor fails to respond within twenty (20) days from the determination that the motel property constitutes a public nuisance by the Chief of Police or Precinct Commander, either by appealing the City's determination or by submitting a proposed abatement plan as provided in this Chapter;
 - 2.** No agreeable written abatement plan for abatement is reached within thirty (30) days from determination of a public nuisance by the Chief of Police or the Precinct Commander;
 - 3.** The owner or rightful possessor fails to execute commencement of the abatement plan within a reasonable amount of time, not to exceed sixty (60) days of the plan's enactment; or
 - 4.** The owner or rightful possessor fails to comply and maintain compliance with all conditions of the written abatement plan for one year.

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- B.** Failure to respond or failure to propose an abatement plan shall be prima facie evidence of the owner or rightful possessor's lack of cooperation. Failure to execute or comply with any abatement plan shall be prima facie evidence of lack of good faith in mitigating or correcting the situation.
- C.** When the owner or rightful possessor makes a response to the Chief of Police or the Precinct Commander as required by this Chapter, any conduct or statements made in connection with the response does not constitute an admission that any nuisance activities have occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.
- D.** If a court determines a motel to be a public nuisance within the meaning of this Chapter, the court may order any remedy it deems appropriate to abate the nuisance, including a civil penalties not to exceed \$500 for the first occasion and not to exceed \$2,500 for the second occasion, and closure of the motel for up to six months for the third occasion.

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Chapter 14B.80

GRAFFITI NUISANCE PROPERTY

Sections:

- 14B.80.010 Declaration of Purpose.
- 14B.80.020 Graffiti Nuisance Property.
- 14B.80.030 Definitions.
- 14B.80.040 Procedures.

14B.80.010 Declaration of Purpose.

- A.** It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls and other structures in order to reduce social deterioration within the City and to promote public safety and health.
- B.** The Manager may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

14B.80.020 Graffiti Nuisance Property.

- A.** Any property, building or structure within the City of Portland which becomes a graffiti nuisance property is in violation of this Chapter and is subject to its remedies.
- B.** Any person who permits property under their control to become a graffiti nuisance property shall be in violation of this Chapter and subject to its remedies.

14B.80.030 Definitions.

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

- A.** Graffiti: Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.
- B.** Manager: The Graffiti Abatement Manager is the City official, or designated representative, who is responsible for the administration of the Graffiti Nuisance

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Abatement program under this Chapter. In accordance with adopted procedures, the Manager may appoint such officers, employees and agents as shall be authorized and necessary to enforce the provisions of this Chapter.

- C.** Graffiti Nuisance Property: Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification pursuant to Section 14B.80.040 B.
- D.** Occupant: Any person or sublessee, successor or assignee who has control over property.
- E.** Owner: Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:
 - 1.** A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
 - 2.** An occupant who has control over the property/premises.
- F.** Permit: Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.
- G.** Property: Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.
- H.** Unauthorized: Without the consent of the owner or the occupant.

14B.80.040 Procedures.

(Amended by Ordinance No. 178352, effective May 28, 2004.)

- A.** Required Graffiti Removal. The owner or occupant of any property in the City shall remove any graffiti from such property within ten (10) days of the graffiti's appearance.
- B.** Notification
 - 1.** Whenever the Manager determines that graffiti exists on any structure in the City of Portland, the Manager may issue an abatement notice.

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2. The Manager shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have ten (10) days after the date of service of the notice in which to remove the graffiti. The Graffiti Abatement Manager shall have the sole discretion to grant the property owner the option of giving the City written permission to enter on the property and remove the graffiti.
3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the Manager shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the Code Hearings Officer to be appropriate, the cost for the same may be made as an assessment lien upon the property.

C. Appeal

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the Manager to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of this Code.
2. Upon receipt of the appeal request, the Code Hearings Officer shall set the matter for hearing within ten (10) business days. If the Code Hearings Officer finds the property to be a Graffiti Nuisance Property, and the owner or responsible party has been given notice in accordance with Subsection B. above, the Code Hearings Officer shall specify when and under what conditions the graffiti shall be abated.

D. Removal of Graffiti

1. The Manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights.

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2. Whenever the Manager has reasonable cause to believe that there exists upon any building or structure any graffiti requiring abatement under this Chapter, the Manager may enter upon the graffiti nuisance property at all reasonable times to perform any duty imposed on the Manager under this Chapter, and to enforce the provisions of this Chapter. Upon the failure to comply with the notice of abatement by the designated compliance date, and if the property owner or occupant has not appealed the notice as provided under Subsection C., the following steps may be taken if the graffiti nuisance property is plainly enclosed to create privacy and prevent access by unauthorized persons:
 - a. If the graffiti nuisance property is occupied, the Manager shall first present proper credentials and demand entry to cause the graffiti to be abated. If entry is refused, the Manager may attempt to secure entry by any legal means.
 - b. If the graffiti nuisance property is unoccupied, the Manager shall first make a reasonable attempt to locate the owner or occupant and demand entry. Such demand may be included in the initial notice sent to the owner or occupant under Subsection B. above. If entry is refused, the Manager may attempt to secure entry by any legal means.
 - (1) If the Manager has first obtained an administrative search warrant to secure entry onto the graffiti nuisance property to abate the graffiti, no owner or occupant shall refuse, fail or neglect, after proper request, to promptly permit entry by the Manager to abate the graffiti.
 - (2) It shall be unlawful for any owner or occupant to refuse to permit entry by the Manager to abate graffiti under this Chapter after an administrative search warrant has been obtained. Any violation of this Subsection is punishable upon conviction by a fine of not more than \$500 and a jail sentence of up to six months.
 - c. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated upon issuance of an Administrative Search warrant.
 - (1) Graffiti Abatement. If the graffiti is not removed and abated, or cause shown, as specified above, the Manager may cause the graffiti to be removed and abated.

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- (2) Warrants. The Manager may request any Circuit Court judge to issue a graffiti abatement warrant whenever entry onto private property is necessary to remove and abate any graffiti.
- (3) Grounds for Issuance of Graffiti Abatement Warrants; Affidavit.

 - (a) Affidavit. A graffiti abatement warrant shall be issued only upon cause, supported by affidavit, particularly describing: the applicant's status in applying for the warrant; the ordinance or regulation requiring or authorizing the removal and abatement of the graffiti; the building or property to be entered; the basis upon which cause exists to remove or abate the graffiti, and a statement of the graffiti to be removed or abated.
 - (b) Cause. Cause shall be deemed to exist if there is reasonable belief that a graffiti violation exists, as defined in this Chapter, with respect to the designated property, and that the property owner has been given notice and an opportunity to abate the graffiti, and has not responded in a timely fashion.
- (4) Procedure for Issuance of a Graffiti Abatement Warrant.

 - (a) Examination. Before issuing a graffiti abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - (b) Issuance. If the judge is satisfied that cause for the removal and abatement of any graffiti nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the graffiti abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated

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quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

- (c) Police Assistance. In issuing a graffiti abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and, remove and abate the graffiti.

(5) Execution of Graffiti Abatement Warrants.

- (a) Occupied Property. Except as provided in 14B.80.040 D.2., in executing a graffiti abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession.
- (b) Unoccupied Property. In executing a graffiti abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in 14B.80.040 D.2.c.(5)(a), but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the graffiti abatement warrant shall be conspicuously posted on the property.

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- (c) Return. A graffiti abatement warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

E. Graffiti Abatement Consent Forms.

1. The Manager shall develop consent forms allowing the Manager to enter onto property to abate the graffiti without prior notice from the Manager. The Manager shall make these consent forms available to the public.
2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The Graffiti Abatement Manager shall renew the consent forms at least biannually.

Chapter 14B.85
GRAFFITI MATERIALS AND SALES

(Chapter added by Ordinance No. 181231,
effective September 28, 2007.)

Sections:

- 14B.85.010 Definitions
- 14B.85.020 Sales and Display of Graffiti Materials.
- 14B.85.030 Civil Penalties.
- 14B.85.040 Criminal Penalties.

14B.85.010 Definitions.

For the purposes of this Chapter, the terms used in this Chapter shall be defined as provided in this Section:

- A. Manager:** means the Manager is the City official, or designated representative, responsible for the administration of the Graffiti Nuisance Abatement program under Chapter 14B.80.
- B. Paint pen.** A tube, marker, or other pen-like instrument with a tip of one-quarter (1/4) inch in diameter or greater that contains paint or a similar fluid and an internal paint agitator.
- C. Graffiti material.** Any can of spray paint, spray paint nozzle, paint pen, glass cutting tool, or glass etching tool or instrument.
- D. Spray paint.** Any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.
- E. Spray paint nozzle.** A nozzle designed to deliver a spray of paint of particular width or flow from a can of spray paint.

14B.85.020 Sale and Display of Graffiti Materials.

- A. Picture Identification and Tracking.**

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1. Any person who owns, conducts, operates, or manages a business where graffiti materials are sold shall obtain current and acceptable identification when selling graffiti material to any person. The purchaser shall sign a sales form that tracks the graffiti material by lot number. The seller completing the transaction shall initial the sales form, confirming that the purchaser is presenting acceptable identification that belongs to and is the same person as the purchaser. The entire sales form is subject to disclosure pursuant to Oregon Public Records Law.
 2. The seller shall maintain a log of all sales of graffiti materials. The log shall include the names of purchasers, a description of the graffiti material sold to the purchaser, the invoice or sales form number for the sale and the date of the sale. The seller shall maintain the log for a period of two years from the date of the sale. Upon presentation of official identification, any representative of the Portland Police Bureau or any designated representative of the Manager may enter the business location of a business where graffiti materials are sold to ensure compliance with the provisions of this Chapter. The inspection shall be for the limited purpose of inspecting the business location, and the log maintained by the seller to determine compliance with the requirements of this Chapter. Any inspection under this Section shall be authorized to occur only during normal business hours of the business location.
 3. For purposes of this Chapter, “acceptable identification” shall mean either a valid driver’s license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or a valid government-issued identification card and a second piece of identification one of which has a photograph of the purchaser. The employee completing the transaction must visually confirm that the photograph on the identification document is of the person presenting the identification and to whom the graffiti materials are being sold.
- B. Display and Storage.** As of November 1, 2007, it shall be unlawful for any person who owns, conducts, operates, or manages a business where graffiti materials are sold or who sells or offers for sale any graffiti material to store or display, or cause to be stored or displayed graffiti material in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. This Ordinance shall not be construed to preclude or prohibit the storage or display of graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

14B.85.030 Civil Penalties.

- A.** The Manager may file a complaint with the Code Hearings Officer, as provided under Section 22.03.020, for any violation of the provisions of this Chapter, asking the Code Hearings Officer to impose civil penalties as provided in this Section. Having made a determination to ask that the Code Hearings Officer to impose civil penalties as provided by this Section, the Manager shall give the person written notice of the determination by causing notice to be served upon the person at their business or residence address. Service of the notice shall be accomplished by mailing the notice by regular mail, or at the option of the Manager, by personal service in the same manner as a summons served in an action at law. Mailing of the notice by regular mail shall be prima facie evidence of receipt of the notice. Service of notice upon the person apparently in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the business owner.
- B.** The Code Hearings Officer may impose civil penalties of up to \$5,000 for any person's first violation of this Chapter. The Code Hearings Officer may impose civil penalties of up to \$15,000 for second violations of this Chapter by the same person. The Code Hearings Officer may impose civil penalties of up to \$25,000 for third or additional violations of this Chapter by the same person.
- C.** In determining the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Code Hearings Officer shall consider:

 - 1. The extent and nature of the person's involvement in the violation;
 - 2. The economic or financial benefit accruing or likely to accrue as a result of the violations;
 - 3. Whether the violations were repeated or continuous, or isolated and temporary;
 - 4. The magnitude and seriousness of the violation;
 - 5. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
 - 6. Any other factors the Code Hearings Officer may deem to be relevant.
- D.** The Manager's decision to file a complaint under subsection A seeking civil penalties for any violations of this Chapter shall be an exclusive choice of

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remedies for enforcement of the requirements of this Chapter for those violations.
In such cases, no criminal penalties may be imposed under Section 14B.85.040.

14B.85.040 Criminal Penalties.

Except as provided in Section 14B.85.030, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

Chapter 14B.90

SECONDHAND DEALERS

(Chapter replaced by Ordinance No. 181303,
effective October 26, 2007.)

Sections:

- 14B.90.010 Purpose.
- 14B.90.020 Definitions.
- 14B.90.030 Permit Required.
- 14B.90.035 Minimum Standards.
- 14B.90.040 Application for Permit.
- 14B.90.050 Issuance and Renewal of Permit.
- 14B.90.060 Permit Fees.
- 14B.90.070 Subsequent Locations.
- 14B.90.080 Reporting of Secondhand Dealer Transactions.
- 14B.90.090 Regulated Property Sale Limitations.
- 14B.90.100 Tagging Regulated Property for Identification.
- 14B.90.110 Inspection of Property and Records.
- 14B.90.120 Prohibited Acts.
- 14B.90.130 Civil Penalties.
- 14B.90.140 Revocation or Suspension of Permit.
- 14B.90.150 Appeals.
- 14B.90.170 Authority of Director to Adopt Rules, Procedures and Forms.

14B.90.010 Purpose.

The Council's purpose in adopting this Chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. The Council finds that this risk is present despite the best efforts of legitimate secondhand dealer businesses because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. The Council finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

14B.90.020 Definitions.

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

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- A.** "Acceptable identification" means either a current driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state or local government-issued identification cards, one of which has a photograph of the seller.
- B.** "Acquire" means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a Dealer and a private party seller; leases; trade-ins; loans; and abandonments. Any acquisition of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, "acquire" does not include:

 - 1.** Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or
 - 2.** Memoranda between a Dealer and a person engaged in the business of selling regulated property.
- C.** "Business Location" means any physical location where the Dealer conducts business.
- D.** "Chief of Police" means the Chief of the Portland Police Bureau or his or her designee.
- E.** "Criminal arrests or convictions" refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Portland, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Portland, as specified herein, will be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or Portland ordinance provisions.
- F.** "Dealer".

 - 1.** Means any:

 - a.** Sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that:

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- b.** Either:
 - (1)** Acquires regulated property at or from business locations within the City of Portland, or on behalf of such a business regardless of where the acquisition occurs, or
 - (2)** Offers for sale regulated property.
- 2.** Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an “Occasional Secondhand Dealer.” The term "Dealer" in this Chapter and all regulations herein refer to Secondhand Dealers, Occasional Secondhand Dealers and Pawnbrokers unless specifically stated otherwise.
- 3.** “Dealer” does not include:
 - a.** A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)3 organizations; or
 - b.** A person whose only business transactions with regulated property in the City of Portland consist of the sale of personal property acquired for household or other personal use; or
 - c.** A person whose only business transactions with regulated property in the City of Portland consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.
- G.** "Director" means the Director of the Portland Revenue Bureau or his or her designee.
- H.** "Held Property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a proscribed period of time as more specifically enumerated in 14B.90.090.
- I.** "Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

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- J.** "Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.
- K.** "New" means anything conspicuously not used.
- L.** "Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 14B.90 to have a Secondhand Dealer Permit. As a Dealer all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.
- M.** "Person" means a natural person.
- N.** "Principal" means any person who will be directly engaged or employed in the management or operation of the Secondhand Dealer business, including any owners and any shareholders with a 5% or greater interest in the company.
- O.** "Receive" means to take property into the inventory, possession, or control of a Dealer.
- P.** "Regulated property" means property of a type that has been determined by the Portland Police Bureau to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. A list of regulated property is included in the Administrative Rules and may be updated at any time in order to enhance the Bureau's ability to reduce property crimes and recover stolen goods.
- Q.** "Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.
- R.** "Seller" means any person who:
- 1.** Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or
 - 2.** Donates or abandons items of regulated property.
- S.** "Trade Show" means an event open to the public, held in a venue other than a Dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.

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Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this Chapter.

- T.** "Transaction Report" means the record of the information required by 14B.90.080, transmitted to the Police Bureau by the means required in the Administrative Rules.
- U.** "Used" means anything that has been put into action or service.

14B.90.030 Permit Required.

- A.** No person or business shall engage in, conduct or carry on a secondhand dealer business in the City without a valid Secondhand Dealer Permit issued by the Revenue Bureau.
- B.** Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an Occasional Secondhand Dealer shall apply for and obtain a Secondhand Dealer Permit before acquiring any more items of regulated property.
- C.** Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City will be presumed to be operating as a Dealer subject to the terms of Chapter 14B.90.
- D.** The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales," is exempt from these regulations if all of the following are present:
 - 1.** No sale exceeds a period of 72 consecutive hours; and
 - 2.** No more than four sales are held at the same location in any twelve-month period.

14B.90.035 Minimum Standards.

- A.** No person or business may operate as a Dealer within the City of Portland unless the person or business maintains a fixed physical business location.
- B.** Dealers shall comply with all applicable federal, state, and local regulations.

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14B.90.040 Application for Permit.

- A.** An applicant for a Secondhand Dealer Permit shall complete and submit an application (including required personal history forms) that sets forth the following information:
- 1.** The name, address, telephone number, birth date and principal occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
 - 2.** The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
 - 3.** The web address of any and all web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer.
 - 4.** Written proof that all principals are at least 18 years of age;
 - 5.** Each principal's business occupation or employment for the 3 years immediately preceding the date of application;
 - 6.** The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 14B.90;
 - 7.** A brief summary of the applicant's business history in any jurisdiction including:
 - a.** The business license or permit history of the applicant; and,
 - b.** Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation.
 - 8.** Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

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- a. If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;
 - b. If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;
 9. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;
 10. All arrests or convictions of each principal enumerated in paragraphs 1 through 7 of this Section;
 11. Upon request, principals and employees shall submit to the Portland Police Bureau the following information: fingerprints, passport size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Portland Police Bureau;
 12. Any other information that the Director may reasonably feel is necessary to accomplish the goals of this Chapter.
- B. The Dealer shall notify the Revenue Bureau of any changes in the information required in Section A within ten business days.
- C. New employees of Dealers shall complete and submit the personal history form as required in Section A of this Subsection. Employees may not acquire regulated property until all required information has been reviewed and approved by the Portland Police Bureau. The criteria used to review a new employee will be the same as those used in the review of an initial application in 14B.90.050 B.

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- D.** The personal and business information contained in the application forms required pursuant to Section 14B.90.040 A. are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq.

14B.90.050 Issuance and Renewal of Permit.

- A.** Upon the filing of an application for a Dealer permit and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 14B.90.040 A. The Director shall issue the permit within 90 days of receiving the application if no cause for denial exists.
- B.** Except as provided in Section 14B.90.050 C. the Director shall deny an application for a Dealer Permit if any of the following apply:
- 1.** The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90; and
 - a.** the license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 14B.90; or
 - b.** the business has been found to constitute a public nuisance and abatement has been ordered.
 - 2.** Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Section 14B.90. The offenses include:
 - a.** Any felony.
 - b.** Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses.
 - 3.** The Director finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 14B.90.120;

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4. The Director finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 14B.090;
 5. Any statement in the application is false or any required information is withheld; or
 6. The Director finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 14B.90 or any laws or statutes equivalent to the provisions of Chapter 14B.90, and the business has violated applicable State, Federal or local requirements, including permitting requirements.
- C. Notwithstanding Section 14B.90.050 B., the Director may grant a permit after consulting with the Chief of Police despite the presence of one or more of the enumerated factors if the applicant establishes to the Director's reasonable satisfaction that:
1. The behavior evidenced by such factor is not likely to recur; or,
 2. The behavior evidenced by such factor is remote in time; or,
 3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 14B.90.
- D. Dealer permits are valid for a term of one year and expire on the first anniversary of their issuance. The permits are nontransferable and are valid only for a single business location. When the business location is to be changed, the permit holder shall provide the address of the new location in writing to the Revenue Bureau for approval at least 14 days prior to the change.
- E. Dealer permits must be displayed at the business location in a manner readily visible to patrons.
- F. Upon denial of an application for a Dealer's permit, the Director shall give the applicant written notice of the denial.

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1. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
 2. Mailing of the notice will be prima facie evidence of receipt of the notice.
 3. The denial will be effective the date the notice is sent.
- G.** Denial of a permit may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 14B.90.150.

14B.90.060 Permit Fees.

Every Dealer shall complete and submit all required forms to the Revenue Bureau and pay a nonrefundable fee as required by the Administrative Rules.

14B.90.070 Subsequent Locations.

- A.** Dealers must file an application for a permit for a subsequent or additional business location with the Revenue Bureau and pay a non-refundable fee as set forth in the Administrative Rules of Chapter 14B.90, provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 14B.90.040 A.2.
- B.** Permits issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent or additional location will expire on the same date as the initial permit.

14B.90.080 Reporting of Secondhand Dealer Transactions.

- A.** Dealers shall provide to the Portland Police Bureau all required information as described in the Administrative Rules for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated to the Special Property Investigations office by means of mail, the internet, or other computer media.
1. In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all Dealers.
 2. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, Dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system

before the deadline, a Dealer must submit a written request for additional time to the Chief of Police before the deadline.

3. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.
- B.** The Portland Police Bureau will provide all Dealers with transaction report forms at cost until 60 days after such time that the Chief of Police directs a change in the reporting method. The Chief of Police may specify the format of the transaction report form. The Chief of Police may require that the transaction report form include any information relating to the regulations of this Chapter. Dealers may utilize their own forms, in lieu of those supplied by the Portland Police Bureau, if the Chief of Police has approved such forms. The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate.

14B.90.090 Regulated Property Sale Limitations.

- A.** Regulated property is subject to the following limitations:
1. Holding Period: Regulated property acquired by any Dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of 14B.90.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of 14B.90.090 remain in effect.
 2. Requirements of held property: All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Revenue Bureau or Police Bureau. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours (as provided in Section 14B.90.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the other requirements of A.2 are met.
 3. Held property requirements do not apply if:

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- a.** The property is received from a Dealer regulated by the City of Portland who has already satisfied the holding requirements of this Chapter and the Dealer records the original transaction report number on the transaction report completed for the new transaction, or
 - b.** If a customer, who originally purchased property from a Dealer, returns it to that Dealer with the original receipt.
- B.** Notwithstanding Section 14B.90.090 A., the Director may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in the Administrative Rules.
- C.** Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of subsection A.2 above. The hold may be extended an additional 30 days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The Dealer shall comply with the hold notice and notify the Portland Police Bureau Special Property Investigations unit of the hold notice not later than five calendar days from the day the notice was received, either by telephone, fax, email, or in person. A Dealer must notify the Special Property Investigations office of their intent to dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.
 - 1.** A Police Hold area must meet the following criteria:
 - a.** Located out of public view and access, and
 - b.** Marked “Police Hold,” and
 - c.** Contain only items that have been put on Police Hold.
 - 2.** Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.
 - 3.** If it is not possible or practical to move an item to or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of

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Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.

- D.** Upon probable cause that an item of property is the subject of a crime, the Chief of Police may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time as determined by the Chief of Police, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in A.2 of this subsection, and will be maintained in the Police Hold area unless seized or released by the Police. Seizure of property will be carried out in accordance with Oregon Revised Statutes.
- E.** If a Dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The Dealer must notify the Portland Police Bureau by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the Portland Police Bureau. The held property must conform to all the requirements found in A.2 of this subsection.
- F.** If a Dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Portland Police Bureau by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.
- G.** If a peace officer seizes any property from a Dealer; the Dealer must notify the Portland Police Bureau of the seizure not later than five calendar days from the day the seizure occurs. The Dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Police Bureau may be given by telephone, fax, email, or in person.

14B.90.100 Tagging Regulated Property for Identification.

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the Portland Police Bureau or assigned by the approved reporting method described in the Administrative Rules. After the holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

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- A.** After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.
- B.** After the applicable holding period has expired, items that are remanufactured need not remain tagged.

14B.90.110 Inspection of Property and Records.

Upon presentation of official identification, a Dealer shall allow any representative of the Portland Police Bureau or the Revenue Bureau to enter the business location to ensure compliance with the provisions of Chapter 14B.90. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter and the Administrative Rules. Except by mutual agreement with the Dealer or by court order, any inspection under this Section may occur only during the Dealer's normal business hours.

14B.90.120 Prohibited Acts.

- A.** It is unlawful for any person regulated by Chapter 14B.90:
 - 1.** To receive any property from any person
 - a.** Known to the principal, employee or Dealer to be prohibited from selling by a court order,
 - b.** Under the age of 18 years unless the person's parent or guardian complete the applicable information on the Declaration of Proof of Ownership,
 - c.** About whom the principal, employee or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another who meets the above criteria;
 - 2.** To receive property prohibited by this Chapter or the Administrative Rules, including
 - a.** Medications;
 - b.** Gift cards, in-store credit cards, or activated phone cards;

- c. Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible.
 - 3. To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen, except as allowed by the Administrative Rules. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.
- B. Any violation of Section 14B.90 is punishable, upon conviction, by a fine of not more than \$500 and a jail sentence of up to six months.

14B.90.130 Civil Penalties.

- A. The Director may assess civil penalties in an amount up to \$500 for each violation of Chapter 14B.90.
- B. Procedure.
 - 1. The Director, having made a determination to seek civil penalties as provided by this Section, shall give the Dealer written notice of the determination.
 - 2. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
 - 3. Mailing of the notice will be prima facie evidence of receipt of the notice.
 - 4. The civil penalty will be due ten days from the date of the notice unless such civil penalty is appealed in accordance with Section 14B.90.150.

14B.90.140 Revocation or Suspension of Permit.

- A. Along with the other regulatory enforcement authority granted under this Chapter, the Director may, after consulting with the Chief of Police, revoke or suspend any permit issued pursuant to this Chapter:
 - 1. For any cause that would be grounds for denial of a permit; or
 - 2. Upon a finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in

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charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; or

3. A lawful inspection has been refused; or
 4. If payment of civil penalties has not been received by the Revenue Bureau within ten business days after the penalty becomes final; or
 5. If any statement contained in the application for the permit is false.
- B.** The Director, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the Dealer written notice of the revocation or suspension.
1. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
 2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
- C.** Revocation will be effective and final ten days after the giving of notice unless the revocation is appealed in accordance with Section 14B.90.150.
- D.** Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

14B.90.150 Appeals.

- A.** Any Dealer or person whose initial application or renewal application for a Dealer permit has been denied, or whose permit has been revoked or suspended, or who has been directed to pay a civil penalty by the Director, may appeal the action of the Director to the Code Hearings Officer of the City of Portland, as set out in Chapter 22.10 of the Portland City Code. Requests for appeal hearings must be filed with the Revenue Bureau.
- B.** The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Director under this Chapter, will stay the effective date of the action until the Code Hearings Officer issues an opinion.

14B.90.170 Authority of Director to Adopt Rules, Procedures and Forms.

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- A.** The Director may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
 - 1.** The Director may adopt rules pertaining to matters within the scope of this Chapter.
 - 2.** Before the Director adopts a rule, a public hearing must be conducted. The Director must give notice of the public hearing in a reasonable manner not less than ten nor more than 30 days before the hearing. The notice must include the place and time of the hearing; where copies of the full text of the proposed rules may be obtained; and a brief description of the proposed rules.
 - 3.** The Director will consider oral and/or written testimony during the public hearing. The Director shall adopt the proposed rule, modify, or reject the proposed rule, based on the testimony received. Unless otherwise stated, all rules are effective upon adoption by the Director and will be kept on file at the Bureau. Copies of all rules will be made available to the public upon request.
 - 4.** Notwithstanding paragraphs 2 and 3 of this Section, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly would result in serious prejudice to the public interest. In so doing, the Director must include the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

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Chapter 14B.100

**LIQUOR LICENSE
RECOMMENDATIONS**

Sections:

- 14B.100.010 Purpose.
- 14B.100.020 Delegation of Application Recommendation Authority.
- 14B.100.030 Application Procedure.
- 14B.100.040 Reconsideration of Applications.
- 14B.100.050 Notification of OLCC Proceedings.
- 14B.100.060 Impact Areas.

14B.100.010 Purpose.

The purpose of this Chapter is to establish a fair, effective and efficient process which shall be used by the Chief of Police in making recommendations to the Oregon Liquor Control Commission (OLCC) for liquor licenses for premises within the City limits. This Chapter is necessary to ensure that all premises licensed to sell or dispense liquor in any form meet the high expectations of this community and that all licensed premises are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this City and its neighborhoods.

14B.100.020 Delegation of Application Recommendation Authority.

In order to expedite service to license applicants and the citizens of the City, the Council, as the governing body of the City, hereby delegates to the Chief of Police its authority to make liquor license application recommendations to the OLCC. Any responsibility delegated to the Chief of Police by this Chapter may also be performed by the designee of the Chief of Police.

14B.100.030 Application Procedure.

(Amended by Ordinance No. 179351, effective June 22, 2005.)

- A. Any applicant for any license who is required by the OLCC to have a recommendation from the City of Portland concerning the suitability of the application shall present the license application forms prescribed by the OLCC to the Office of Neighborhood Involvement, or its designee, for the purpose of obtaining the recommendation of the Chief of Police concerning the license.

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- B.** The Office of Neighborhood Involvement shall accept liquor license applications only when the following conditions are met:
1. All required forms are properly completed and in order; and
 2. The applicant has obtained a valid City business license; and
 3. The processing fee has been paid. Fees shall be in the maximum amount allowed by Oregon law and shall be nonrefundable.
- C.** The Office of Neighborhood Involvement shall forward liquor license applications to the Chief of Police with a copy of the City of Portland Liquor Outlet Information form to the Bureau of Licenses within one business day of receipt.
- D.** Except for applications for new licensed premises for railroads, public passenger carriers or boats, health care facilities, or all OLCC wholesale type licenses, in addition to the posting of a conspicuous notice on the licensed premises as required by the OLCC, ONI shall:
1. Notify the following persons by mail that an application has been filed:
 - a. Property owners and property occupants within 300 feet of the proposed licensed premises;
 - b. The neighborhood association within whose boundaries the licensed premises will be located.
 2. Post the proposed new licensed premises with a notice indicating the process for public comment.
 3. Request a response in writing from the neighborhood association, property owners and property occupants and allow at least 20 days after the mailing or posting of notification as provided in this Section, to provide a response in writing to ONI. ONI shall notify any person who responds pursuant to this Section of the recommendation made by the Chief of Police to the OLCC.
- E.** The Chief of Police shall conduct an investigation of each application for the purpose of determining the recommendation that shall be made to the OLCC. In addition to the information required by the OLCC application forms, the Chief of Police is authorized to require from the applicant any other pertinent information that the Chief of Police deems appropriate.

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- F.** The Chief of Police shall coordinate with ONI and the City Noise Control Officer prior to issuance of a recommendation to determine if there is substantial neighborhood concern or opposition to the application, or if there is evidence that noise is or will be a significant and persistent problem at the licensed premises.
- 1.** If the Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws, the Chief of Police shall forward an unfavorable recommendation directly to the OLCC.
 - 2.** If there is substantial neighborhood concern or opposition to the application, or there is evidence that noise is or will be a significant and persistent problem at the licensed premises, but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by Oregon liquor laws, the Chief of Police shall forward a no endorsement recommendation directly to the OLCC, with supporting documentation of neighborhood concern or opposition and/or evidence of noise as provided by ONI, and shall request that the OLCC hear testimony from the neighborhood. ONI shall coordinate neighborhood testimony for OLCC hearings.
 - 3.** If the Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, and there is no substantial neighborhood concern or opposition or evidence that noise is or will be a significant and persistent problem at the licensed premises, the Chief of Police shall forward a favorable recommendation directly to the OLCC. The Chief of Police may also attach conditions or restrictions to a favorable recommendation, such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.
- G.** The Chief of Police shall notify the applicant of the recommendation.
- H.** The process for renewal applications shall be as provided by this Section except that the notification requirements of Subsection D shall not apply.
- I.** If ONI believes a good neighbor agreement will alleviate substantial neighborhood concern or opposition, ONI shall attempt to work with the licensed premises and the neighborhood to achieve a good neighbor agreement. ONI shall notify the Chief of Police and the OLCC of any completed good neighbor agreements, or, of its attempts to achieve a good neighbor agreement, in the event

ONI is unable to complete a good neighbor agreement within a reasonable period of time.

14B.100.040 Reconsideration of Applications.

Except as provided by this Section, after having made a recommendation other than favorable on any new license application, the Chief of Police shall not reconsider an application for the same location by the same or substantially the same applicant for a period of at least 6 months, or during the period the applicant has an appeal relating to the license pending in court or in a state administrative agency, whichever is longer. However, the Chief of Police may reconsider an application in less than 6 months if no appeal relating to the license is pending in court or in a state administrative agency, and the Chief of Police reasonably determines that the circumstances which caused the Chief of Police to make a recommendation other than favorable have substantially changed.

14B.100.050 Notification of OLCC Proceedings.

ONI shall notify Council of OLCC hearing dates, places and times, and advise Council of applications that will receive unfavorable recommendations, no endorsements recommendations, or favorable recommendations with conditions or restrictions. ONI shall advise Council of the OLCC's decisions on applications.

14B.100.060 Impact Areas.

- A.** It shall be the responsibility of the Chief of Police to review, from time to time, the locations, types and quantities of liquor licenses that have been issued for premises located in geographical areas, neighborhoods or sectors of the City. If the Chief of Police, upon inquiry, or at the request of citizens or groups finds: that some area of the City is saturated with certain types of licensed premises selling or serving alcoholic beverages and that the placement of additional licensed premises within that area will likely be deleterious to that area; or, that excessive criminal acts, traffic congestion, or litter problems are present or will increase due in part to the licensed premises; or, additional licensed premises are not justified by public interest or convenience, then the Chief of Police shall make a recommendation to Council that the area be designated as an impact area, and that liquor licenses of certain types should not be granted or renewed in that area for a specific period of time, or until the number of current licenses is reduced to the point that licensed premises can be permitted that will not be deleterious to the area, or, will not lead to additional criminal acts, traffic congestion or litter problems, or, are justified by public interest or convenience.
- B.** If Council declares an area to be an impact area based upon findings that valid grounds exist as provided by Oregon liquor laws, the Chief of Police shall notify OLCC so that OLCC may ensure that liquor license applicants are put on notice of the impact area.

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- C.** Within any area declared to be an impact area as provided by this Chapter, the Chief of Police is authorized, on behalf of Council:

 - 1.** To present an unfavorable recommendation to the OLCC on any application for a new licensed premises located in the impact area; or,
 - 2.** To present a favorable recommendation for any existing licensed premises located in the impact area, subject to certain conditions or restrictions, such as allowing liquor sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other restrictions consistent with the Oregon liquor laws.
- D.** Impact area recommendations shall not apply to licensed premises wherein the sale of alcoholic beverages is incidental to full service restaurant facilities, with meals prepared on the licensed premises, provided that the liquor license applicant(s) and the restaurant owner(s) are one and the same.
- E.** The following areas are declared by Council to be impact areas:

 - 1.** Burnside District Impact Area. The Burnside District, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Burnside District is defined as that area bounded by the Willamette River on the East and North, by NW Ninth Avenue to West Burnside Street, by West Burnside Street to SW Fourth Avenue, by SW Fourth Avenue to SW Ankeny Street, by SW Ankeny Street to the Willamette River.
 - 2.** Central Eastside Industrial District Impact Area. The portion of the Central Eastside Industrial Area, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For the purposes of this Section, the Central Eastside Industrial Area is defined as that area bounded by the Banfield Freeway to the North, by SE 12th Avenue to the East, by SE Clay Street to the South, and by the Willamette River on the West.
 - 3.** Inner North/Northeast Neighborhood Impact Area. The Inner North/Northeast Neighborhood, as herein defined, is declared an impact area with regard to new licensed premises applications and existing licensed premises. For purposes of this Section, the Inner North/Northeast Neighborhood is defined as that area bounded by NE Columbia Blvd. on the North, NE Broadway Blvd. on the South, and Interstate 5 on the West. The area's boundary on the East is NE 42nd Avenue from NE Columbia Blvd. to NE Prescott Street, NE 23rd Avenue from NE Prescott Street to

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NE Mason Street, NE 21st Avenue from NE Mason Street to NE Fremont Street and NE 7th Avenue from NE Fremont Street to NE Broadway Blvd.

Chapter 14B.110

**AMUSEMENT DEVICES,
GAMES AND MACHINES**

Sections:

- 14B.110.010 Purpose.
- 14B.110.020 Definitions.
- 14B.110.030 Authorization.
- 14B.110.040 Permits Required for Certain Amusement Devices.
- 14B.110.050 Permits Required, Fees.
- 14B.110.060 Permit Application, Issuance, Denial.
- 14B.110.070 Requirements of Permit Holders.
- 14B.110.080 Inspection of Amusement Devices, Records, and Premises.
- 14B.110.090 Prohibited Conduct.
- 14B.110.100 Permit Suspension, Revocation.
- 14B.110.110 Violations, Sealing Prohibited Amusement Devices.
- 14B.110.120 Civil Penalties.
- 14B.110.130 Criminal Penalties.
- 14B.110.140 Appeals.

14B.110.010 Purpose.

The purpose of this Chapter is to provide for the strict regulation of amusement devices, games and machines in order to reduce the potential for unlawful gambling, adverse neighborhood impacts, and adverse impacts on the welfare and education of children in the City, and to raise revenue.

14B.110.020 Definitions.

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

- A. “Amusement device” means any machine, device, or game, including foosball or table soccer games, billiards or pool tables, shuffleboard, shooting gallery devices, miniature bowling games, electronic games of skill, video games, and other similar machines, devices, or games:
 - 1. Which are made available for display or operation; and,

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2. Which require the payment of money or other valuable consideration.
3. “Amusement device” shall not include:
 - a. Ping pong tables, music devices, vending machines, or any rides where no element of chance, bonus, or prize is involved; or
 - b. Video lottery games, game terminals and equipment operated directly by the Oregon Lottery Commission as a state agency.
- B. “Amusement Center” means any location where a person makes seven or more amusement devices available for operation or play at any one time, but excluding any location that:
 1. Derives at least 50 percent of its gross income from the sale of food; or,
 2. Possesses a current, valid license authorizing the on-premises consumption of alcoholic beverages; or,
 3. Is operated primarily as a movie theater, bowling alley, skating rink, or other similar establishment, which displays or operates amusement devices only during the hours that such establishment makes its primary service or activity available to the public.
- C. “Director” means the Director of the Portland Bureau of Licenses, or his or her designee.
- D. “Display or operation” means to make any amusement device available to the public for use or play, for the purposes of displaying or exercising skill or for amusement, at any public or private location.
- E. “Location” means any business establishment, public or private club, association, or any other site where a person makes any amusement device available for display or operation, excepting only private residences in which such amusement devices are available only for display or operation at no cost to the player.
- F. “Person” means any real person, or any partnership, association, corporation, or other form of business organization.

14B.110.030 Authorization.

- A. Enforcement. The Director is authorized to enforce all provisions of this Chapter.

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- B.** Procedures and forms. The Director may adopt procedures and forms to implement the provisions of this Chapter.

14B.110.040 Permits Required for Certain Amusement Devices.

- A.** It shall be unlawful for any person to make available for display or operation any amusement device in which the outcome does not depend in a material degree upon an element of chance, unless all required permits have been obtained, and the display or operation of the amusement device comply with all applicable provisions of this Chapter and of the statutes of the State of Oregon.
- B.** The provisions of this Section shall not exempt any amusement device from any applicable provisions of the Internal Revenue Code requiring federal gaming device tax stamps, or any applicable provisions of the statutes of the State of Oregon.

14B.110.050 Permits Required, Fees.

- A.** It shall be unlawful for any owner of a location to display or make available for operation any amusement device described in Subsection 14B.110.040 without first obtaining a valid Location Permit for the location. Location Permits shall be classified with respective nonrefundable fees, as follows:

Type of Permit	No. of Devices	Fee Per Location
Class I	1 - 3	\$ 50.00
Class II	4 - 6	100.00
Class III	7 - 9	200.00
Class IV	10 - 19	500.00
Class V	20 or more	1000.00

- B.** It shall be unlawful for any owner of an amusement center to display or make available for operation any amusement device described in Subsection 14B.110.040 without first obtaining a valid Amusement Center Permit. Amusement Center Permits shall be classified with nonrefundable fees according to the number of devices at the location as set forth above.
- C.** In lieu of all other permits required by this Chapter, any person may make any amusement device described in Section 14B.110.040 available for display or operation, for one continuous time period not exceeding 90 days in any calendar

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year, by obtaining a Temporary Location Permit, which shall require the payment of a nonrefundable fee of \$250.

- D.** All permits issued under this Chapter, except Temporary Location Permits, shall be valid for the calendar year of issue, and shall expire on December 31 of that year. All permits shall contain information regarding the permittee's identity. No permit issued under this Chapter shall be transferable or assignable under any circumstances.
- E.** No provision in this Chapter shall be construed to permit the use of any amusement device in violation of State or federal law, or of any of the other provisions of this Code other than those specifically referred to herein.

14B.110.060 Permit Application, Issuance, Denial.

- A.** Applications for all permits required by this Chapter shall be made to the Bureau of Licenses on forms provided by the Bureau of Licenses. The applicant shall provide all the information relating to the purposes of this Chapter required on the form by the Bureau of Licenses. Failure to provide any information requested on this form may be cause to deny the requested permit.
- B.** The Director shall approve issuance of permits after payment of the required fee, completion of the application form and following an investigation of the applicant. However, the Director shall deny a permit application if:
 - 1.** The applicant has been convicted of any offense related to minors, juveniles, gambling, obscenity, controlled substances, prostitution or alcoholic beverages;
 - 2.** Any person has been convicted of any offense relating to minors, juveniles gambling, obscenity, controlled substances, prostitution or alcoholic beverages occurring at the location for which the permit is to be obtained;
 - 3.** Any statement in the application is found to be false;
 - 4.** The applicant has been a principal owner, operator, manager or supervisor of an amusement location and the activities or patrons of such business caused a significant increase in harassing, disorderly or violent acts, criminal activity, vandalism, litter, liquor law violations, noise or traffic congestion in or around such business;

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5. In the Director's opinion, after investigation of the proposed location of an amusement location, the proposed site would be reasonably likely to result in an increase in those acts noted in part (4) of this Subsection;
 6. The business operation as proposed by the applicant would not comply with all applicable requirements of this Code, including, but not limited to, the Building, Health, Planning and Zoning and Fire Codes of the City;
 7. The permitted amusement center would be located within 100 feet of any residential zone established by the Planning and Zoning Code or any location within 500 feet of any public or private elementary, junior high or high school or playground, this distance to be measured in a straight line without regard to intervening structures or obstacles from the nearest point of the school property or residential zone to the nearest point of the structure in which the permitted amusement devices would be operated; or,
 8. The proposed location of the business operation requiring a Location Permit, would be a detriment to the immediate vicinity due to congregation of pedestrian or vehicular traffic.
- C. Notwithstanding Subsection B. above, the Director with the concurrence of the Chief of Police may issue a conditional permit if the applicant establishes to the Director's satisfaction that:
1. The behavior evidenced by such factor is not likely to recur;
 2. The behavior evidenced by such factor is remote in time; or,
 3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Chapter.
 4. Under this Subsection, the Director may only issue a permit containing conditions directed at ensuring that such factor shall not recur.
- D. Denial of a permit may be appealed by the applicant by filing written notice of an appeal as provided in Section 14B.110.140.

14B.110.070 Requirements of Permit Holders.

- A. Any person issued any permit for any amusement device shall supervise the use and operation of such device to prevent its use or operation for any purposes

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contrary to the provisions of this Chapter or any other violation of the provisions of the City Code or applicable State statutes.

B. Displaying Permits.

1. All location, amusement center, and temporary location permits issued under this Chapter shall either be:
 - a. Securely affixed to the permitted amusement device;
 - b. Displayed so as to be visible to the public at all times such device is in a location open to the public; or,
 - c. Visible to the public in the same room as the permitted amusement device.
2. If affixed to the amusement device, the permit must be visible for inspection without removing any portion of the amusement device, or any other obstacle, and without physically moving the amusement device from its normal operating position.
3. The entire face of any displayed permit shall be visible. The permit shall be displayed or affixed during its entire term.

C. Any person issued a Location Permit, or a permit to operate an amusement center, shall operate, maintain and supervise the permitted business and its premises, including parking facilities, to prevent:

1. Violations of the provisions of the Portland City Code, state, or federal law, relating to juveniles, minors, alcoholic beverages, gambling, obscenity, controlled substances, prostitution, or crimes against persons or property as defined by the Oregon Revised Statutes, that are connected in a time and manner with the operation and proximity of such premises;
2. Harassing or disorderly acts on, in, or around such premises; and,
3. Any significant increase in litter, noise, vehicular or pedestrian traffic congestion, or other locational problems in the area around such business.

14B.110.080 Inspection of Amusement Devices, Records, and Premises.

- A. Any person issued permits under this Chapter, or who controls any location in which a permitted amusement device is located, shall permit any Bureau of**

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Licenses' representative or Bureau of Police officer upon presentation of official identification, to enter such location for the limited purposes of inspecting all records, amusement devices and premises regulated under this Chapter, to which the public has access, to ensure compliance with the provisions of this Chapter.

- B.** Inspections under this Section shall be authorized only during normal business hours.
- C.** Failure to permit an inspection authorized under this Section shall be grounds for suspension or revocation of any permit required under this Chapter.

14B.110.090 Prohibited Conduct.

- A.** It shall be unlawful for any person to make an amusement device available for use or operation without first obtaining all permits required pursuant to this Chapter.
- B.** It shall be unlawful for any person in control of an amusement device to display an expired permit.
- C.** It shall be unlawful for any person to possess or control an amusement device which has any paper, sticker, tag or other device affixed, attached or placed on the device which purports to be a permit issued by the City or implies that the City has issued a permit when the paper, sticker, tag or other device was not issued by the City.
- D.** It shall be unlawful to knowingly or intentionally use or permit the use or operation of an amusement device for any gambling purposes, whether by operation of the amusement device or based upon results obtained through use or operation of the device.
- E.** It shall be unlawful for any owner to transfer ownership of any amusement location permitted under this Chapter without first removing the permit from the location.
- F.** It shall be unlawful for any person to sell, rent, give, loan or otherwise assign or transfer any permit issued under this Chapter.
- G.** It shall be unlawful for any person to operate an amusement center without having a permit issued pursuant to this Chapter.

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14B.110.100 Permit Suspension, Revocation.

- A.** The Director may suspend or revoke any permit issued under this Chapter upon finding reasonable grounds to believe, based upon an investigation, that:
 - 1.** Cause exists which would otherwise be grounds for the denial of such permit;
 - 2.** An intentional or knowing violation by the permittee of any provision of this Chapter has occurred; or,
 - 3.** Any violation by any person of any City ordinance or state or federal statute has occurred relating to gambling while using, operating or playing any such amusement device. Persons holding permits shall be considered to be responsible for any gambling activity of any employee relating to any permitted amusement device. Pursuant to this Section, permits may be suspended or revoked for any violation of law relating to gambling activity relating to permitted amusement devices or premises.
- B.** A suspension or revocation ordered by the Director shall not become effective until the permittee is served with written notice of the suspension or revocation, the reasons therefor, and the limited right of appeal pursuant to Section 14B.110.140, either personally or by delivery or posting of the notice at the location of the involved amusement device or business. The suspension or revocation may be appealed by filing written notice of an appeal as provided in Section 14B.110.140.

14B.110.110 Violations, Sealing Prohibited Amusement Devices.

- A.** Upon a determination that any provision of this Chapter has been violated, the Director shall issue a written Notice of Violation and assess civil penalties. The notice shall state the nature of the violation, the date of the violation, and the date by which such violation must be corrected and any civil penalties which must be paid to prevent the amusement device from being sealed. The person responsible for the violations shall be allowed 5 days in which to correct the violation.
- B.** Sealing of Amusement Devices.
 - 1.** If a violation is not corrected and civil penalties paid within the time period allowed in Subsection A. above, the Director may seal the coin slot of any amusement device involved in the violation. If an amusement device is sealed, the Director may remove the seal only if the person

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responsible for the violations has corrected the violations and paid any penalties imposed under this Chapter.

2. It shall be unlawful for any other person other than the Director to remove or alter a seal. If a seal is unlawfully removed or altered, the sealed amusement device shall be subject to seizure and destruction pursuant to this Section.
 3. If within a single calendar year a permittee has been issued a Notice of Violation, the Director may seal any amusement device and impose penalties for all further violations by that permittee within that calendar year without first issuing a Notice of Violation or allowing time to correct the violations.
- C. A sealed amusement device shall be subject to seizure and destruction as a public nuisance if:
1. The violation is not corrected and all penalties paid within 5 days of sealing; or
 2. Upon the occurrence of any subsequent violations of this Section by any one owner or lessor within any calendar year.
- D. The Bureau of Police shall assist the Bureau of Licenses in the seizure of the amusement device. The City Attorney is authorized to bring any suit or action for the destruction of the amusement device as a public nuisance.
- E. The owner of any amusement device seized for destruction may, within 10 days of the permittee being served with written notice of such seizure, file a written notice of appeal as provided in Section 14B.110.140.

14B.110.120 Civil Penalties.

- A. The Director may impose civil penalties for violations of the provisions of this Chapter according to the following schedule:
1. Sealed amusement device removed from location: the penalty shall be up to \$50 per amusement device.
 2. Failure to obtain proper location permit: the penalty shall be up to \$50 per amusement device.

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3. The unlawful removal of seal from amusement device: the amusement device shall be subject to seizure and destruction pursuant to Section 14B.110.110.

B. Calculation of Civil Penalties.

1. In calculating the amount of the civil penalty to be imposed for violations of the provisions of this Chapter, the Director shall consider:
 - a. The extent and nature of the person's involvement in the violation;
 - b. The economic or financial benefit accruing or likely to accrue as a result of the violations;
 - c. Whether the violations were repeated or continuous, or isolated and temporary;
 - d. The magnitude and seriousness of the violation;
 - e. The City's costs of investigating the violations and correcting or attempting to correct the violation; and,
 - f. Any other factor the Director deems to be relevant.
2. The Director shall provide notice of the assessment of civil penalties in the Notice of Violation under Section 14B.110.110 A.

- C. No person assessed a penalty under this Section shall be issued a permit under this Chapter until all such penalties have been paid in full.
- D. Civil penalties imposed pursuant to this Section shall be the only penalties authorized for such violations.
- E. Any person assessed a penalty may, within 10 days of receiving such written order, file a written notice of appeal as provided in Section 14B.110.140.

14B.110.130 Criminal Penalties.

Except as provided in Section 14B.110.120, the intentional or knowing violation of any provision of this Chapter is punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

14B.110.140 Appeals.

- A.** The filing of a notice of appeal to the Code Hearings Officer, as set out in Chapter 22.10 of this Code, of revocation or suspension of a permit, or of any civil penalty imposed by the Director under this Chapter, or of any seizure of an amusement device for destruction, shall stay the effective date of the action until the appeal is determined by the Code Hearings Officer.
- B.** The notice of appeal shall be in writing. The notice shall state the name and address of the appellant to which all required notices may be mailed. The notice shall also indicate the reasons why the appealed action was wrong and what the correct determination should be.

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Chapter 14B.120

**TIME, PLACE AND MANNER
REGULATION OF ESTABLISHMENTS THAT
SELL AND SERVE ALCOHOLIC BEVERAGES**

(Chapter added by Ordinance No. 178201,
effective March 19, 2004.)

Sections:

- 14B.120.010 Purpose.
- 14B.120.020 Definitions
- 14B.120.025 Authority to Adopt Rules, Procedures and Forms.
- 14B.120.030 Nuisance Activity Violations.
- 14B.120.040 Notice.
- 14B.120.050 Nuisance Abatement Plan.
- 14B.120.055 Responsible Neighbor Program.
- 14B.120.060 Enforcement.
- 14B.120.070 Hearings.
- 14B.120.080 Remedies.

14B.120.010 Purpose.

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving alcoholic beverages, ORS 471.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

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14B.120.020 Definitions.

(Amended by Ordinance No. 184870, effective September 14, 2011.) As used in this Chapter, unless the context requires otherwise:

- A. "Alcoholic Beverage" means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.
- B. "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- C. "Chief of Police" means the Chief of Police of the Portland Police Bureau.
- D. "Licensee" means any person holding a license issued by the Oregon Liquor Control Commission.
- E. "Establishment" means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Establishment" also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.
- F. "Nuisance activity" means any of the following:
 - 1. Operation of sound producing equipment, as prohibited by City Code Section 14A.30.020.
 - 2. Disorderly conduct as defined in ORS 166.025 (2003).
 - 3. Offensive littering as defined in ORS 164.805 (2003).
 - 4. Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
 - 5. Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
 - 6. Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.
 - 7. Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.

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8. Illegal Drug activity as defined by ORS Chapter 475.840 sections (1) – (4).
 9. Unlawful Prostitution Procurement Activities or loitering for the purpose of prostitution as defined in City Code Sections 14A.40.040 or 14A.40.050 or Illegal prostitution as defined in ORS 167.007.
 10. Criminal homicide as defined in ORS 163.005(2) and 163.095-163.149.
 11. Assault by means of a weapon or motor vehicle as defined in ORS 163.160(1)(b), 163.165(1)(a), 163.165(1)(c), 163.175(b)-(c), 163.185(a) and 163.185(d).
 12. Assault that causes serious physical injury as defined in ORS 163.165(b) and 163.175(a).
 13. Recklessly endangering another person as defined in ORS 163.195.
 14. Any felony sexual offense in the first degree as defined in ORS 163.375-163.427.
 15. Unlawful Use of a Weapon as defined in ORS 166.220.
- G. "Serve" or "serving" means to furnish, provide or supply alcoholic beverages to patrons or customers.

14B.120.025 Authority to Adopt Rules, Procedures and Forms.

The Director and Chief of Police are authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.

14B.120.030 Nuisance Activity Violations.

(Amended by Ordinance No. 184870, effective September 14, 2011.) It shall be a violation of this Chapter if:

- A. During any continuous sixty (60) day period, any combination of three or more nuisance activities as defined in Subsections 14B.120.020 F.1.-9. occurs that is related to or arising out of an establishment that serves alcoholic beverages.
- B. One or more nuisance activities as defined in Subsections 14B.120.020 F.10-15. occur that are related to or arising out of an establishment that serves alcoholic beverages.

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14B.120.040 Notice.

(Amended by Ordinance No. 184870, effective September 14, 2011.)

- A.** The Director and the Chief of Police shall appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.
- B.** If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice shall contain a description of the nuisance activity, the date and the time of its occurrence.
- C.** Upon determining that there is reasonable belief that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police shall send written notice to the licensee. The written notice shall contain at least the following information:

 - 1.** The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission.
 - 2.** A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and,
 - 3.** A request that the licensee provide a written response within ten (10) business days either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.
- D.** If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:

 - 1.** The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or,
 - 2.** The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

14B.120.050 Nuisance Abatement Plan.

- A.** If the licensee responds to the Director or the Chief of Police within ten (10) business days of the date of the notice, with a proposed course of action for

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abating the nuisance activities, the Director or the Chief of Police shall review the proposal. If the Director or the Chief of Police determines that the proposal will reasonably abate the nuisance activities, the Director or the Chief of Police and the licensee shall enter into an enforceable agreement, specifying the terms and conditions of the abatement plan.

- B.** At a minimum, the agreement shall identify the nature of the nuisance activities, the specific steps the licensee will undertake to abate the nuisance activity and the related resources the licensee will commit to the abatement, if applicable, and a mechanism for the Director or the Chief of Police to monitor compliance with the plan.
- C.** Any such agreement shall be executed by the licensee and the Director or the Chief of Police within thirty (30) days of the date of the licensee's written response to the Director or the Chief of Police's notice. The Director or the Chief of Police may, upon request, extend this thirty-day period if it appears that the parties are working diligently to come to agreement.

14B.120.055 Responsible Neighbor Program.

(Amended by Ordinance No. 178898, effective November 24, 2004.) Qualified licensees may request to participate in a Responsible Neighbor Program as administered by the Director.

- A.** The Director shall approve a licensee for participation in the Responsible Neighbor Program, if the licensee meets all of the following qualifications:
 - 1.** The licensee is licensed solely for off premises sales; and
 - 2.** The licensee is currently certified for participation in the Responsible Vendor Program provided in ORS 471.344 (2003).
- B.** If any licensee participating in the Responsible Neighbor Program has three (3) nuisance activities in violation of Section 14B.120.030, or fails to comply with any of the qualifications under Subsection 14B.120.030 A., the Director shall issue a written notice to the licensee and initiate a proceeding before the Code Hearings Officer as set out in Chapter 22.03 of the City Code for suspension of the licensee from participation in the Responsible Neighbor Program for a period of one year.
- C.** If a licensee is removed from the Responsible Neighbor Program, any subsequent nuisance activity violations under Section 14B.120.030, the Director or the Chief of Police will follow the processes and remedies as provided in Sections 14B.120.040 through 14B.120.080

14B.120.060 Enforcement.

(Amended by Ordinance No. 184870, effective September 14, 2011.) Upon making a determination that a violation of this Chapter has occurred as provided under Section 14B.120.030, the Director or the Chief of Police may file a complaint before the Code Hearings Officer to initiate a code enforcement proceeding only if any of the following have first occurred:

- A. The licensee has failed to submit a timely written response to the Director or the Chief of Police's notice; or
- B. The licensee fails to propose or enter into an abatement plan that is acceptable to the Director or the Chief of Police; or
- C. The licensee does not operate the establishment in compliance with the written abatement plan.
- D. The licensee has been found to be in violation of this Chapter within the preceding 12 months.

14B.120.070 Hearings.

The initiation and procedures of any code enforcement proceeding to determine whether nuisance activities have occurred as provided in Section 14B.120.030 and to impose remedies under Section 14B.120.080 shall follow the provisions of Chapter 22.03 of the City Code.

14B.120.080 Remedies.

(Amended by Ordinance No. 184870, effective September 14, 2011.) If the Code Hearings Officer determines that a violation has occurred, as provided in Section 14B.120.030, the Code Hearings Officer shall make findings regarding the occurrence of the nuisance activities and any related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

- A. Limiting the hours or days during which the establishment may operate.
- B. Requiring the establishment to provide resources to monitor, control and respond to patron behavior at and around the establishment, including but not limited to, hiring adequate security personnel to patrol the establishment.
- C. Restricting the activities at the establishment to prevent the reoccurrence of nuisance activities, including but not limited to restrictions upon the time and manner in which entertainment is offered.

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- D.** Ordering the licensee to undertake other actions reasonably necessary to abate the nuisance activities or mitigate the effects thereof, including but not limited to, modifying the establishment to include noise insulation to prevent and abate nuisance activities related to noise.

Chapter 14C.10

POLICE DUTIES TO INVENTORY PROPERTY

Sections:

- 14C.10.010 Purpose.
- 14C.10.020 Definitions.
- 14C.10.030 Inventories of Impounded Vehicles.
- 14C.10.040 Inventories of Persons in Police Custody.

14C.10.010 Purpose.

This Chapter is meant to apply exclusively to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for other purposes.

14C.10.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- A.** “Valuables” means:
 - 1.** Cash money of an aggregate amount of \$50 or more; or
 - 2.** Individual items of personal property with a value of \$500 or more.
- B.** “Open container” means a container which is unsecured or incompletely secured in such a fashion that the container’s contents are exposed to view.
- C.** “Closed container” means a container whose contents are not exposed to view.
- D.** “Police custody” means either:
 - 1.** The imposition of restraint as a result of an ‘arrest’ as that term is defined at ORS 133.005(1);
 - 2.** The imposition of actual or constructive restraint by a police officer pursuant to a court order;
 - 3.** The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 430, or Chapter 419B; or

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4. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement or detaining of persons pursuant to Oregon Revised Statute or this Code.
- E. “Police officer” means any police officer employed or acting at the direction of or in collaboration with the Portland Bureau of Police and any officer of the Port of Portland Police Department.

14C.10.030 Inventories of Impounded Vehicles.

- A. The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:
1. If there is reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or
 2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.
- B. The purpose for the inventory of an impounded vehicle will be to:
1. Promptly identify property to establish accountability and avoid spurious claims to property;
 2. Assist in the prevention of theft of property;
 3. Locate toxic, flammable or explosive substances; or
 4. Reduce the danger to persons and property.
- C. Inventories of impounded vehicles will be conducted according to the following procedure:
1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

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2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 - a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car- top containers; and
 - b. Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
3. Unless otherwise provided in this Chapter, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.
4. Upon completion of the inventory, the police officer will complete a report as directed by the Chief of such officer's department.
5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such manner as directed by the Chief of the police officer's department.

14C.10.040 Inventories of Persons In Police Custody.

- A. A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:
 1. Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or
 2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.
- B. The purpose of the inventory of a person in police custody will be to:

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1. Promptly identify property to establish accountability and avoid spurious claims to property; or
 2. Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or
 3. Assist in the prevention of theft of property; or
 4. Locate toxic, flammable or explosive substances; or
 5. Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
 6. Reduce the danger to persons and property.
- C. Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:
1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
 2. To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
 3. A closed container in the possession of such person will have its contents inventoried only when:
 - a. The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;
 - b. Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

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- c. The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
- D. Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of such officer's department.
- E. All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:
 1. A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;
 2. The property will be dealt with in such manner as directed by the Chief of such officer's department.
- F. All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in Subsection 14.10.040 E. above, will be released to the facility or agency accepting custody of the person so that they may:
 1. Hold the property for safekeeping on behalf of the person in custody, and
 2. Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

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Chapter 14C.20

**POLICE BUREAU PROPERTY/
EVIDENCE DIVISION DUTIES**

Sections:

- 14C.20.010 Maintenance of Property/Evidence Division.
- 14C.20.020 Receipts for Property.
- 14C.20.030 Records.
- 14C.20.040 Evidence Property.
- 14C.20.050 Reserved.
- 14C.20.060 Found Property.

14C.20.010 Maintenance of Property/Evidence Division.

The Bureau of Police shall maintain a property/evidence division which shall keep the following:

- A.** Property of all persons arrested by Portland Police and incarcerated in a Multnomah County Jail, except any personal items kept at the jailer's discretion for the prisoners;
- B.** Evidence seized by officers or other persons in the process of making an arrest;
- C.** Contraband, illegal items, or miscellaneous property which comes into possession of members of the Bureau of Police.

14C.20.020 Receipts for Property.

Officers and other authorized persons shall issue a receipt for all seized property, a duplicate copy of which shall be retained by the property/evidence division custodian. The receipt and any copy therefrom shall bear the signature of the person depositing the property and contain a description of the property.

14C.20.030 Records.

The property/evidence division custodian shall keep an accurate record of all property received by the property/evidence division and shall keep current records showing the disposition of all property.

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14C.20.040 Evidence Property.

- A.** All property received by the property/evidence division as evidence shall be held subject to use as evidence in the appropriate court(s). Upon final disposition of the case(s) for which such property was seized as evidence, the Bureau of Police shall make a reasonable attempt to return all lawful property still held by the property/evidence division to its legal owner or rightful possessor.
- B.** The Bureau of Police shall make a reasonable attempt to give notice to the legal owner or rightful possessor that the property will be released to him or her. The notice shall state that the legal owner or rightful possessor has 60 days within which to claim the property at the Bureau of Police. All property received from the property/evidence division requires the signature of the legal owner or rightful possessor.
- C.** Upon attempted notice, if property is not claimed within 60 days, the property may be disposed of by the Bureau of Police in the manner provided by law. The return of undisputed claims for money equal to or in excess of \$100.00 shall first be deposited into the General Fund and then shall be paid out from said Fund to the legal owner or rightful possessor. Payment on disputed claims shall be authorized either by an appropriate court order approved by the City Attorney or by ordinance.

14C.20.060 Found Property.

All found property in the custody of the Bureau of Police will be held, and a reasonable attempt will be made to return the property to the owner. If the owner of found property held by the Bureau of Police cannot be determined, or no owner comes forward to claim the property, the property may be disposed after 30 days from the date the property was taken into custody by the Bureau of Police in the manner provided by law.

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Chapter 14C.30

**GENERAL PROCEDURES AND
AUTHORITY OF THE BUREAU OF POLICE**

Sections:

- 14C.30.010 Authority to Restrict Access to Certain Areas.
- 14C.30.020 Other Police Officers Authorized to Arrest, Cite, or Take Other Enforcement Action for Violations of City Code Provisions.
- 14C.30.030 Authority to Direct Traffic on Public Rights of Way.
- 14C.30.040 Seizure and Disposition of Weapons.
- 14C.30.050 Seizure of Dangerous and Deadly Weapons for Safekeeping.
- 14C.30.060 Caretaking of Property.
- 14C.30.070 Authority of Tri-Met to Prohibit Misuse of Transit Shelters and Loading Platforms on City Property.
- 14C.30.080 Appeal of Designation as a Gang Affiliate.

14C.30.010 Authority to Restrict Access to Certain Areas.

- A.** Whenever a threat to the public health or safety is created by any emergency, a Portland police officer may restrict or deny access to any persons to the area where such threat exists, for the duration of such threat, when the officer reasonably believes the presence of such persons would constitute a danger to themselves or others or would substantially interfere with the performance of the police or other emergency services. For purposes of this Section, an emergency includes, but is not limited to an escaped prisoner, a natural disaster, a fire, an explosion, an accident, a riot, the presence of an armed person, a hostage incident or a bomb threat.
- B.** Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, a police officer may restrict or deny access to any area.
- C.** As used in this Section, "restrict or deny access" means that a police officer has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

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- D.** It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections (A) or (B) above, unless such person has specific statutory authority, or the permission of the on-scene ranking police officer, to be within such area.
- E.** In accordance with the authority granted by this Section, and in consideration of the law enforcement and emergency services needs involved, provision shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

14C.30.020 Other Police Officers Authorized to Arrest, Cite, or Take Other Enforcement Action for Violations of City Code Provisions.

Police officers, as defined in this Title, are authorized to arrest, issue a citation, or take other enforcement action for violations of the following City Code provisions:

- A.** All provisions of Title 14, Public Order and Police;
- B.** All provisions of Title 16, Vehicles and Traffic;
- C.** All provisions of Title 18, Noise Control; and
- D.** All provisions of Title 20, Parks and Recreation.

14C.30.030 Authority to Direct Traffic on Public Rights of Way.

Officers and reserve officers of the Portland Police Bureau are authorized to direct pedestrian and vehicular traffic on any public right of way.

14C.30.040 Seizure and Disposition of Weapons.

- A.** The Bureau of Police may seize and take possession of any dangerous or deadly weapon that is possessed unlawfully, or used unlawfully, or used for an unlawful purpose. The weapon shall be held subject to disposal as provided in this Section.
- B.** If it is determined that the weapon was not possessed, carried, or used unlawfully, the weapon shall be released to the lawful owner if he or she files a timely written claim with the Bureau.
 - 1.** A claim is timely if it is filed:
 - a.** Within 60 days after the weapon was seized, if it was not held for use as evidence, or

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- At the discretion of a police officer, property may be received for safekeeping or the prevention of crime.

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14C.30.070 Authority of Tri-Met to Prohibit Misuse of Transit Shelters and Loading Platforms on City Property.

- A.** Tri-Met may make and enforce such ordinances and regulations as it deems necessary regarding misuse of transit shelters and transit loading platforms for the purpose of exclusion and criminal trespass.
- B.** For the purposes of this Section, the following definitions apply:
 - 1.** Transit Shelter: the area within the drip line of any transit shelter within the limits of the City of Portland, except the Pioneer Square North and South stations.
 - 2.** Transit loading platform: the area that extends the entire length of the tactile bricks where Tri-Met operated trains and trolleys load and unload within the limits of the City of Portland. This area extends from the tracks to one foot past the rear of the Tri-Met ticket vending machines, or to the farthest drip line of the transit shelter, whichever is farthest from the tactile bricks.

14C.30.080 Appeal of Designation as a Gang Affiliate.

- A.** Any person who is to be designated as a gang affiliate by the Police Bureau following the administrative hearing provided for in the Portland Police Bureau Manual of Policy and Procedure or who has unsuccessfully challenged a gang affiliate designation at such a hearing, has a right of appeal to the Code Hearings Officer.
- B.** The appeal authorized by this Section shall be conducted in accordance with the procedures and under the conditions set forth in Chapter 22.10 of this Code.

- D.** If at any time a fuel surcharge is currently in place, appropriate notification of the surcharge must be given to the public. The Board may determine by administrative rule what suffices for appropriate notification, but at a minimum all vehicles subject to a fuel surcharge must have signage in the vehicle notifying of the surcharge.

16.40.080 Pedicab Driver Permits Required – Application Process & Requirements.

- A.** Permit Required. No person may drive a pedicab without a valid, current pedicab driver's permit issued under Chapter 16.40.
- B.** Application Documents Required. Applicants for a pedicab driver's permit must submit to the Administrator the items listed below. The failure to submit any of the items listed will result in a denial of the permit:
- 1.** a completed application on a form approved by the Administrator;
 - 2.** a copy of the applicant's current driver's license or government issued photo identification (if the company has a Bureau-approved training class relating to traffic rules and regulations); and
 - 3.** if necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Photographs. Applicants will be photographed by the Bureau upon submittal of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D.** Fees Required. Applicants must submit a nonrefundable application fee in the amount listed in the Fee Table in Section 16.40.590.
- E.** Age and Criminal History. Applicants for a pedicab driver's permit may not be issued a permit if any of the following conditions exist:
- 1.** The applicant has a felony of any kind in the 10 years preceding the submission of the application;
 - 2.** The applicant has a felony involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 - 3.** During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:

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- a. any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;
 - 4. The applicant is less than 18 years old.
 - F. Driver Safety and Customer Service Training Requirements. Applicants must successfully complete the following training and classes within 6 months of issuance of the driver's permit:
 - 1. A Bureau-approved driver safety program; and
 - 2. A Bureau-approved customer service training class.
 - G. Driver Knowledge and Skills Testing Requirements. Applicants must successfully complete each of the following tests as administered by the Bureau before a permit can be issued:
 - 1. Map-reading;
 - 2. Relevant City Code provisions and administrative rules; and
 - 3. Portland-area attractions.

16.40.090 LPT and Taxi Driver Permits Required – Application Process & Requirements.

(Amended by Ordinance No. 185496, effective August 10, 2012.)

- A. Permit Required. No person may drive a for-hire transportation vehicle without a valid, current for-hire transportation driver's permit issued under Chapter 16.40.
- B. Application Documents Required. Applicants for a for-hire transportation driver's permit must submit to the Administrator the items listed below. The failure to submit any of the items listed will result in a denial of the permit:
 - 1. a completed application on a form approved by the Administrator;
 - 2. a copy of the applicant's current driver's license;

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3. a copy of the applicant's non-Oregon driving record for any year in which the applicant was not a resident of Oregon during the last 10 years, regardless of the jurisdiction; and
 4. if necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Photographs. Applicants will be photographed by the Bureau upon submittal of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D.** Fees Required. Applicants must submit a nonrefundable application fee in the amount listed in the Fee Table in Section 16.40.590.
- E.** Age, Criminal History, Driving History and Insurability Requirements. Applicants for a driver's permit may not be issued a permit if any of the following conditions exist:
1. The applicant has a felony of any kind in the 10 years preceding the submission of the application;
 2. The applicant has a felony involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 3. During the 5-year period preceding the submission of the application, the applicant has been convicted of any criminal offense involving:
 - a. any misdemeanor involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;
 4. During the 5-year period preceding the submission of the initial application, the applicant had greater than 10 traffic infractions as defined in ORS 801.557; greater than five serious traffic violations as defined in ORS 801.477; greater than five motor vehicle accidents that are required to be reported to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, greater than five of any combination of serious traffic violations or motor vehicle accidents as provided above;

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5. During the 10-year period preceding the filing of the initial application, the applicant's driving privileges were suspended or revoked by any governing jurisdiction as a result of a driving-related incident;
 6. The applicant has more than two traffic violations or infractions of any kind within the previous 12 months from the date of the application;
 7. The applicant has more than four infractions of any kind within the previous 12 months from the date of the application;
 8. The applicant does not have at least 2 years' worth of continuous driving experience in a United States jurisdiction immediately prior to the date of the application's submission;
 9. The applicant is less than 21 years old; or
 10. The applicant is unable to obtain car insurance for any reason.
- F.** Driver Safety and Customer Service Training Requirements. Applicants must successfully complete the following training and classes within 6 months of issuance of the driver's permit:
1. A Bureau-approved driver safety program; and
 2. A Bureau-approved customer service training class.
- G.** Driver Knowledge and Skills Testing Requirements. Applicants must successfully complete each of the following tests as administered by the Bureau before a permit can be issued:
1. Map-reading;
 2. Relevant City Code provisions and Administrative Rules; and
 3. Portland-area attractions.
- H.** CPR Training for SAT Drivers. In addition to all other requirements found in Section 16.40.090, SAT drivers must have CPR and advanced first aid certifications within 6 months of issuance of the driver's permit.
- I.** The Director is authorized to provide by Administrative Rule the special permitting process for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.100 Issuance of Driver's Permit; Term; Replacements.

- A.** Issuance and Fees. If an applicant submits the required documents and otherwise satisfies all conditions and requirements found in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs), the Administrator will issue a driver's permit to the applicant within 20 days of completion of all requirements and payment of the permit fees outlined in the Fee Table in Section 16.40.590.
- B.** Permit Requirements: All driver permits must:

 - 1. contain the permit number, permit expiration date, the driver's name and the driver's photograph;
 - 2. be posted in a prominent place within any vehicle driven by the permitted driver if the vehicle is a taxicab, pedicab, shuttle or SAT; and
 - 3. be inside the vehicle and available for inspection by any customer, passenger, police officer or designated City employee if the vehicle is a limousine or executive sedan.
- C.** Term. Driver's permits are valid for a period of 12 months from the date of issuance and must be renewed upon expiration. Permits expire on the last day of any given month, regardless of what day of the month the Bureau issued the permit. In order to achieve the goal of staggered renewal dates, the Board may by administrative rule require that initial permit terms following passage of this ordinance are valid for a period of less than 12 months.
- D.** Replacements. If a driver's permit is lost, damaged or stolen, the Administrator will issue a replacement permit for a fee in the amount outlined in the Fee Table in Section 16.40.590.
- E.** Compliance with Business License Tax Law. If applicable, any driver issued a driver's permit under this Chapter must comply with all provisions of the Business License Tax Law, Chapter 7.02, within 60 days of issuance of a driver's permit.
- F.** Suspension for Failure to Complete Training. Drivers that do not successfully complete all training and skills tests as required by Subsections 16.40.080 F., 16.40.090 F. and 16.40.090 H. within 6 months of the permit's issuance must return their permits to the City and those permits are thereafter suspended pending completion of all required skills tests and trainings. If the required tests and trainings are not completed within 9 months of the permit's original issuance date, the permit is revoked and applicants must begin the permit process again.

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16.40.110 Further Review and/or Denial of a Driver Permit Application.

- A.** “Request for More Information” Letter. If the Administrator determines that a permit cannot be issued due to an incomplete application, a failure to pay the application fee, or for any reason found in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) that can potentially be corrected, the Administrator will send the applicant a “Request for More Information” letter (the “Information Letter”) within 21 days of the initial application date. If the applicant is a taxi driver, the Administrator will also mail a copy of the Information Letter to the sponsoring taxi company. If the Administrator does not grant a permit or send an Information Letter within 21 days, the application is deemed denied and the applicant may appeal pursuant to Section 16.40.580.
- B.** Contents of Information Letter. The letter must list the reason(s) in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) that require further information and/or review before a permit may be issued.
- C.** Applicant Response Opportunity. If an applicant receives an Information Letter, the applicant may respond by either:

 - 1.** Submitting any missing information as requested by the Administrator in the letter;
 - 2.** Submitting any explanatory information regarding any criminal or driving infraction that was the subject of the denial;
 - 3.** Completing, within 90 days, any skills tests, driving tests, or knowledge tests that the applicant failed; or
 - 4.** Demonstrating to the Bureau’s satisfaction that the disqualifying factor is either not likely to reoccur or that it occurred under circumstances that diminish the seriousness of the behavior.
- D.** Successful Response. Applicants that successfully and timely address the initially-disqualifying reason found in the Information Letter will be issued a driver’s permit pursuant to Section 16.40.100.
- E.** Failure to Respond. An application is deemed rejected if the applicant fails to respond in writing within 10 days to an Information Letter. Rejected applicants that subsequently wish to obtain a driver’s permit must file a new application and meet all the requirements of Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs), including paying all necessary application fees. If the applicant shows that the delay in responding was based on good cause, the

Administrator may allow the applicant to respond to the Information Letter in the manner prescribed in Subsection 16.40.110 C.

16.40.120 Driver Permit Renewals; Consequences of Failure to Renew.

- A.** Driver permits must be renewed every 12 months from the date of issuance.
- B.** Every 2 years from the date of the initial permit, drivers must successfully complete all driver safety classes as described in Subsection 16.40.090 F. In addition, the City will conduct a review of the driver's criminal history and DMV records during this time.
- C.** The following information, certificate of completion and payment amount must be submitted to the Bureau no less than 1 month prior to the renewal date:
 - 1.** Updated file information if any information in the original application has changed;
 - 2.** Payment of the renewal fee as outlined in the Fee Table in Section 16.40.590.
 - 3.** Certificate of completion of a Bureau-approved driver safety class as described in Subsection 16.40.090 F.
- D.** Permits will not be renewed unless the driver is in compliance with the City's Business License Tax Law, Chapter 7.02, if applicable.
- E.** Except as provided in Subsection 16.40.120 B., permits will not be renewed if the driver fails to satisfy any condition that would have been grounds to deny the initial permit, including any criminal activity or driving crimes/violations.
- F.** Permits will not be renewed if the driver has more than five assessed civil penalties or more than \$4,500 in assessed civil penalty fines in the 12 months prior to the renewal date.
- G.** If a driver fails to timely pay the permit renewal fee, timely provide the renewal information required by Subsection 16.40.120 C., or fails to timely complete any training course as required by Subsection 16.40.120 B., the permit expires and becomes void. Voided driver permits require the former permittee to file an initial permit application and pay all necessary fees as outlined in Section 16.40.090 or, if applicable, Section 16.40.080 (pedicabs) to obtain a valid permit.

16.40.130 LPT Company Permits Required – Application Process & Requirements.
(Amended by Ordinance No. 185496, effective August 10, 2012.)

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- A.** Permit Required. No person or entity may conduct business as an LPT for-hire transportation company without a valid, current LPT company permit issued by the City under Chapter 16.40.
- B.** Application Requirements. An applicant for an LPT company permit must submit to the Administrator:
 - 1.** a completed application on a form supplied by the Bureau;
 - 2.** proof of registration with the Secretary of State for any corporate, LLC or LLP entity;
 - 3.** proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
 - 4.** The name of any person or entity holding an ownership interest of 20 percent or more for any corporation, limited liability company or limited liability partnership;
 - 5.** If an SAT company, proof that it has at least one valid government-approved contract for services; and
 - 6.** A nonrefundable application fee in the amount outlined in the Fee Table in Section 16.40.590.
- C.** Additional Requirements. In addition to the requirements of Subsection 16.40.130 B., the Board has the authority to require, by administrative rule, that the applicant demonstrate some or all of the following:
 - 1.** that it has an adequate amount of financial resources to ensure compliance with the requirements of this Chapter, including, but not limited to, insurance and vehicle requirements,
 - 2.** that it has a valid business plan to enter into the for-hire market,
 - 3.** that there is a need for additional LPT service providers in the City limits to service a growing demand or that the applicant has a business model to attract new business in the current market.
- D.** Compliance with Secretary of State Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.

- E.** The Director is authorized to provide by Administrative Rule the special permitting process for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.140 Issuance of LPT Company Permits; Term; Replacements.

- A.** Issuance of Permit. If the applicant provides all necessary documents required in Subsection 16.40.150 D., and if the applicant has a current business license issued under Chapter 7.02, the Administrator will issue an LPT Company permit upon the payment of the required permit fee as outlined in the Fee Table in Section 16.40.590. If the applicant fails to satisfy any requirement, the permit will be denied.
- B.** Term. LPT Company permits are valid for a period of 12 months from the date of issuance. Permits expire on the last day of any given month, regardless of what day of the month the Bureau issued the permit. In order to achieve the goal of staggered renewal dates, the Board may by administrative rule require that initial permit terms following passage of this ordinance are for less than 12 months.
- C.** Replacement Permit. If an LPT company permit is lost, damaged or stolen, the Administrator will issue a replacement permit for a fee amount as outlined in the Fee Table in Section 16.40.590.

16.40.150 Taxicab Company Permits Required – Application Process & Requirements.

- A.** Permit Required. No person or entity may conduct business as a taxicab company without a valid, current company permit issued by the City under Chapter 16.40.
- B.** Application Requirements. An applicant for a taxicab company permit must submit to the Administrator:
- 1.** a completed application on a form supplied by the Bureau;
 - 2.** proof of registration with the Secretary of State for any corporate, LLC or LLP entity;
 - 3.** proof of registration with the Secretary of State for any assumed business name, along with a listing of the registrant of such;
 - 4.** A list of all persons or entities with more than 10 percent stock ownership if the company issues stock certificates; and

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5. A nonrefundable application fee in the amount outlined in the Fee Table in Section 16.40.590.

- C. Compliance with Secretary of State's Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.

16.40.160 Issuance or Denial of Taxicab Company Permit; City Council Action.

- A. Administrator Review Process. After receiving a completed taxicab company application form and upon successful completion of all the requirements of Section 16.40.150, the Administrator will review the application in order to make a recommendation to the Board for approval or denial.
- B. Recommendation Factors. The Administrator's recommendation will be based upon the requirements of Chapter 16.40, any regulations established by the Board pursuant to Section 16.40.050, and the following additional factors:
 1. The current status of the public transportation system in the City;
 2. The current and future ability of the public transportation system to provide the timely and effective movement of persons;
 3. The ratio of population within the City of Portland to the number of taxicabs currently in operation;
 4. The demonstrated need for additional taxicab service in the City that is not accomplished by existing companies, as shown by the applicant;
 5. The present utilization patterns of taxicabs currently in operation; and
 6. The interests of the applicant in establishing a local business to legitimately serve the citizens of this City.
- C. Administrator's Staff Recommendation Report. Upon completion of the review process outlined in Subsection 16.40.160 A., the Administrator will prepare a Staff Recommendation Report that recommends approval or denial of the application. If the Administrator recommends denial, the Administrator will state the specific reasons therefore in the Staff Recommendation Report.
- D. Board Review. Upon completion of the Staff Recommendation Report the Administrator will forward it and the original taxi company application to the Board for consideration at the next regularly-scheduled Board meeting. The Board will review the application and the Staff Recommendation Report and will

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consider the Administrator's recommendation. Board members may ask questions of the applicant during the Board meeting. Upon the Board's review and consideration of the application, it will then vote on whether it recommends approval or denial of the application. The Board will reduce its recommendation to a written document (the "Board Recommendation") and the Bureau will forward it to the City Council along with the Staff Recommendation Report.

- E.** Council Hearing. Once the Bureau has forwarded the Staff Recommendation Report and the Board Recommendation to City Council, the Administrator will contact the Auditor's Office and set a Council hearing date on the Board's recommendation of the applicant's approval or denial. The Council will conduct a public hearing regarding the Board's recommendation on the application. At such hearing the officers and/or major stockholders in the applicant company may be directed by the Council to personally appear before it.
- F.** Council's Standard of Review. The Council's review is de novo, but it will consider the Staff Recommendation, the Board's Recommendation, and the factors found in Subsection 16.40.160 B. in determining whether to grant an application for a new taxicab company permit.
- G.** Issuance or Denial of Permit. At the close of the hearing, the Council will direct the Bureau to issue a taxicab company permit to the applicant only if it finds:

 - 1.** That the interests of the City will be served thereby; and
 - 2.** That the applicant has sufficient financial resources to be able to meet the minimum standards established by Section 16.40.270.
- H.** Conditions of Permit. If the permit is granted, it may contain such terms or conditions as the Council deems appropriate.
- I.** Fees. The Bureau cannot issue the taxicab company permit until the applicant pays the permit fee outlined in the Fee Table in Section 16.40.590.

16.40.170 LPT and Taxicab Company Permit Renewals.

- A.** LPT and Taxicab Company permits must be renewed 12 months after issuance. All permits expire on the last day of any given month, regardless of what day of the month the original permit was issued.
- B.** The following information and documents must be submitted to the Bureau no later than 1 month prior to the renewal date:

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1. Updated file information if any information in the initial application has changed; and
 2. Updated copies of insurance certificates for any permitted vehicles that are subject to the requirements found in Section 16.40.410.
- C. LPT and taxi companies must pay the renewal fees outlined in the Fee Table in Section 16.40.590.
- D. Permits will not be renewed if the company fails to satisfy any condition that would have been grounds to deny the initial permit.
- E. Permits will not be renewed unless the company is in compliance with the City's Business License Tax Law, Chapter 7.02.
- F. Permits will not be renewed if the company does not have a current, valid registration with the Oregon Secretary of State's office, including registration of all assumed business names.

16.40.180 Pedicab Decals Required – Application Process & Requirements.

- A. Decal Required for Pedicabs. No pedicab may be used as a for-hire transportation vehicle without a valid and unobstructed decal issued by the City under Chapter 16.40. Applicants for a vehicle decal must satisfy the conditions as set forth in Subsections 16.40.180 B. – F. for every vehicle decal application, which includes providing to the Bureau a copy of all certificates required.
- B. Application Form. The applicant for a pedicab decal must complete a "Pedicab Decal Application Form" provided by the Administrator and which includes the following requested information:
 1. Pedicab Make;
 2. Pedicab Model; and
 3. Pedicab Owner.
- C. Insurance Certificate. All pedicab applicants must provide the Bureau with an insurance certificate of liability indicating that the requirements of Section 16.40.420 have been satisfied.
- D. Safety Inspection. The Board has the authority, by administrative rule, to require that a pedicab satisfy certain safety standards before it may be decaled. This may include inspection by an independent third party or inspection by City personnel.

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- E.** Pedicab Condition. Notwithstanding Subsection 16.40.180 D., no pedicab will be decaled if the Administrator determines that the interior is not clean and/or the exterior is not in good condition.
- F.** Fees. Pedicab companies must pay a nonrefundable application fee for each for-hire pedicab applying for a decal in the amount outlined in the Fee Table in Section 16.40.590.

16.40.190 LPT Decals and Taxiplates Required; Application Process & Requirements.
(Amended by Ordinance Nos. 185496 and 185497, effective August 10, 2012.)

- A.** Decal Required for LPT Vehicles. No LPT vehicle may be used as a for-hire transportation vehicle without a valid and unobstructed decal issued by the City under Chapter 16.40. Applicants for a vehicle decal must satisfy the conditions as set forth in Subsections 16.40.190 C. – J. for every vehicle decal application, which includes providing to the Bureau a copy of all certificates required.
- B.** Taxiplate Required for Taxicabs. No taxicab vehicle may be used as a for-hire transportation vehicle without a valid and unobstructed taxiplate issued by the City under Chapter 16.40. Applicants for a taxiplate must satisfy the conditions as set forth in Subsections 16.40.190 C. – J. for every vehicle taxiplate application, which includes providing to the Bureau a copy of all certificates required
- C.** Application Form. The applicant for a vehicle decal or taxiplate must complete a “Decal/Taxiplate Application Form” provided by the Administrator and which includes the following requested information:
 - 1.** Vehicle Make;
 - 2.** Vehicle Model;
 - 3.** Vehicle Identification Number (VIN);
 - 4.** Vehicle Owner;
 - 5.** Vehicle Model Year;
 - 6.** Vehicle License Plate Number; and
 - 7.** Whether the vehicle is wheelchair accessible
- D.** Age of Vehicle. After December 31, 2011, decals and taxiplates will not be issued to a for-hire vehicle applicant unless the vehicle meets the age

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requirements below. For the purposes of Chapter 16.40, the age of a vehicle is determined by the manufacturer's model year, regardless of when the vehicle was purchased or put into service as a "for-hire" vehicle. Apart from the exception found in Subsection 16.40.190 E., no for-hire vehicle may be older than the following ages:

1. Taxicabs: 10 years
 2. Shuttles: 10 years
 3. Executive Sedans: 10 years
 4. SAT's: 10 years
 5. Wheelchair Accessible Vehicles: 10 years for all new and replaced wheelchair accessible vehicles, effective January 1, 2013; except that vehicles purchased and put into service prior to January 1, 2013 may be used and renewed until they are 15 years old, so long as they remain continuously permitted and in service from the time of purchase.
- E.** Vehicle Age Exception. Applicants whose vehicles are considered "classic" or "antique" under criteria found in administrative rule may petition the Administrator for an exception to the vehicle age requirements found in Subsection 16.40.190 D. Applicants who can demonstrate to the Administrator that their vehicle is in excellent safety, mechanical and physical condition despite it being beyond the age limits found in Subsection 16.40.190 D. may be granted an exception to those age limits.
- F.** Insurance Certificate. All decal and taxiplate applicants must provide the Bureau with an insurance certificate of liability indicating that the requirements of Section 16.40.410 have been satisfied.
- G.** Safety Certificate. Each vehicle must pass a standardized vehicle safety test as performed by a certified mechanic approved by the City. The Certified Mechanic will then issue to the applicant a "Safety Certificate" stating that the vehicle passed the required safety inspection. A list of certified mechanics and the things that must be inspected by the mechanic are found in administrative rules.
- H.** Vehicle Condition. Notwithstanding the issuance of a safety certificate, no vehicle will be decaled or taxiplated if the Administrator determines that the interior is not clean and/or the exterior is not in excellent condition.

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- I.** Vehicle Registration. All applicants must provide the Administrator with a copy of the appropriate state-issued vehicle registration for all for-hire transportation vehicles.
- J.** Fees. All for-hire companies must pay a nonrefundable application fee for each for-hire vehicle applying for a decal or taxiplate in the amount outlined in the Fee Table in Section 16.40.590.
- K.** The Director is authorized to provide by Administrative Rule a substitute decal or permit card for round trip medical transportation from distant areas for service provided by medical brokerages under contract with the Oregon Health Authority.

16.40.200 Limit on Number of LPT Vehicles Allowed.

- A.** The total number of LPT decal-issued vehicles for any specific LPT industry (sedan, limousine, shuttle, SAT or pedicab) may be capped by administrative rule if the Bureau determines that market saturation exists. In determining if market saturation exists, the Bureau will examine the factors outlined in administrative rule.
- B.** If the Bureau determines that market saturation exists after examining the factors listed in administrative rule, the Director may ask the Board to adopt an administrative rule capping the number of LPT vehicles for that specific industry. In making this determination, the Bureau is not required to find that all factors are present, nor is it required to give any one factor priority over other any other factor.
- C.** If the Board adopts an administrative rule that caps the number of LPT decaled vehicles, then no new permits will be issued by the Bureau in that specific industry category.
- D.** Notwithstanding Subsection 16.40.200 C., no currently-decaled vehicle will be required to forfeit its decal upon adoption of any administrative rule capping the number of decaled vehicles allowed.
- E.** Notwithstanding Subsection 16.40.200 C., any vehicle that has been providing for-hire transportation for at least 12 months prior to June 1, 2009, and which was not subject to this Chapter's requirements at that time but which is subject to this Chapter's requirements as of June 1, 2009, may be permitted provided that the Bureau receives its application for a permit by August 31, 2009.
- F.** If the Board adopts an administrative rule that caps the number of decaled LPT vehicles, any LPT company affected by the cap may apply to the Board for an

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increase in the number of decaled vehicles that it may operate notwithstanding the cap. The application must be in a form established by the Administrator. Applications will only be accepted from April 1 – April 30 and September 1 – September 30 of any given year. Requests for more LPT vehicle decals will be considered by the Board at the first regularly-scheduled board meeting after July 1 for the April applications and after December 1 for the September applications. Bureau staff will submit a recommendation to the Board at least 10 days prior to the meeting, but the Board is not required to follow staff's recommendation. The Board may grant the application in whole or in part upon a finding that an increase in decaled vehicles for the applicant would not detrimentally affect market saturation or that the applicant has demonstrated a need for increased vehicles to serve a growing demand for that applicant.

16.40.210 Limit on Number of Taxicabs Allowed.

- A.** No taxicab company may operate more taxicabs than authorized by the Council, unless additional taxicabs have been authorized by the Board pursuant to Subsection 16.40.210 B.
- B.** A taxicab company may apply to the Board for an increase of the number of taxicabs that the company may operate. The application must be in a form established by the Administrator. Applications will only be accepted from April 1 – April 30 and September 1 – September 30 of any given year. Requests for more taxiplates will be considered by the Board at the first regularly-scheduled board meeting after July 1 for the April applications and after December 1 for the September applications. Bureau staff will submit a recommendation to the Board at least 10 days prior to the meeting, but the Board is not required to follow staff's recommendation. The Board may grant the application in whole or in part.
- C.** If the Board approves an increase in the number of taxicabs that a company may operate, it may also impose additional conditions, including but not limited to, vehicle type or utilization. If a condition is imposed under this Subsection, the Board may remove it upon application by the taxi company if the Board determines that the reasons for the condition no longer exist or have otherwise been minimized.
- D.** Any Board action that authorizes an increase in the number of taxicabs operated by a taxicab company is automatically stayed if a timely appeal of such action is filed by an aggrieved party pursuant to the procedures in Section 16.40.580.

16.40.220 Vehicle Decal and Taxiplate Issuance or Denial.

- A.** Upon successful completion of the vehicle or pedicab decal/taxiplate application process and payment of the required permit fee as outlined in the Fee Table in

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Section 16.40.590, the Administrator will issue a vehicle identification decal bearing a bar code and the city seal for each LPT vehicle or pedicab that qualifies, and the Administrator will issue a taxiplate bearing a unique City-issued number for each taxicab that qualifies.

- B.** Decals and taxiplates are valid for a period of no more than 12 months from the date of issuance, and all decals and taxiplates expire on the same day as the expiration of the LPT or Taxi Company permit with which they are affiliated. Fees for decals and taxiplates that are not issued contemporaneously with a company permit will be prorated to equal the cost of the number of months remaining until the company permit expires.
- C.** Decals must be affixed to the vehicle's front and back window in a manner outlined by administrative rule.
- D.** Taxiplates must be affixed to the trunk, tailgate or rear bumper of the taxicab.
- E.** All decals and taxiplates must be clearly visible upon outside inspection.
- F.** Permittees may not operate any substitute vehicle or pedicab until the substitute vehicle or pedicab has passed the safety inspection process and has a decal or taxiplate affixed to it.
- G.** Decals that are intentionally destroyed or damaged by the permittee prior to renewal and without the City's authorization are not subject to renewal.

16.40.230 Vehicle Decal and Taxiplate Renewals.

- A.** Company permittees must pay a renewal fee in the amount outlined in the Fee Table in Section 16.40.590 for each decaled and taxiplated vehicle no later than 1 month prior to the decal or taxiplate's expiration date.
- B.** If the permittee fails to pay the renewal fee or provide other renewal information as required by Subsection 16.40.230 A., the vehicle decal or taxiplate is deemed abandoned and the vehicle decal or taxiplate becomes void within 30 days of its original expiration date.
- C.** Voided vehicle decals and taxiplates are not renewable in the year following their voidance.
- D.** Once a vehicle decal or taxiplate is voided, a for-hire transportation company may not renew that decal or taxiplate and instead must complete the initial application process if the company seeks a decal or taxiplate for that vehicle.

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- E.** With the exception of pedicabs, vehicle decals and taxiplates will not be renewed unless the vehicle passes the safety inspection test outlined in Subsection 16.40.190 G. and the permittee provides the City with a Certificate of Safety.
- F.** No decal or taxiplate will be issued as a renewal if any condition exists that would have been grounds for denial of the initial decal or taxiplate.

16.40.240 Transfer of Decal, Permit or Taxiplate Interest Prohibited.

- A.** All permits, decals and taxiplates issued by the City under the terms of this Chapter are City property and cannot be leased, sold, transferred or assigned in any manner.
- B.** Any decal, taxiplate or permit that is not returned to the City within 21 days upon revocation or upon a failure to renew is considered conversion of City property and is an actionable offense in a court of competent jurisdiction.
- C.** Any person or company that fails to return, within 21 days, any decal, taxiplate or permit upon revocation or upon a failure to renew is subject to a civil penalty of \$1,500.

16.40.250 Knowingly Providing False Information; Penalties.

- A.** Any person that knowingly provides materially false information on any document, insurance form, report or application required under this Chapter is subject to a civil penalty of \$250 for each occurrence.
- B.** If the correct information would have been grounds for a denial of a permit for any reason, then any permit issued due to the false information is revoked in addition to the penalty found in Subsection 16.40.250 A.
- C.** If a person knowingly provides materially false information to an insurance agent, broker or company as part of the requirements for insurance under this Chapter, then all permits issued to that person will be revoked immediately upon the date the violation is discovered by the Administrator.

16.40.260 Late Submission of Payments Due, Information or Documents; Penalties.

- A.** Any person that does not timely submit any payment when due, or who does not timely submit any information or documents required under this Chapter or requested by the Administrator, is subject to a civil penalty as described in Subsection 16.40.260 B.
- B.** Civil penalties for late submissions will be assessed as follows:

1. If less than 10 days late, the penalty is \$50 per occurrence.
2. If more than 10 days late but less than 21 days late, the penalty is \$100 per occurrence.
3. If more than 21 days late the penalty is \$200 per occurrence and, if the information or documents are necessary for the issuance or renewal of a permit, the permit will not be issued by the City absent a showing of good cause for the delay.

16.40.270 Minimum Standards of Service for Taxicab Companies.

Permitted taxicab companies must comply with the following minimum standards:

- A. A dispatch system in operation 24 hours each day capable of providing reasonably prompt service in response to requests received by telephone.
- B. Acceptance of any request for taxicab service received from any location within the City.
- C. Service city-wide, 24 hours a day, 7 days a week. If more than 65 percent of the company's permitted taxicabs are found within a 1 mile radius of the Portland International Airport's main entrance road at any given time (not including any taxicabs at a company headquarters), a rebuttable presumption exists that the company is not providing city-wide service.
- D. A minimum fleet of 15 taxicabs.
- E. At least 2/3 of the taxicab company's permitted fleet must be utilized and in service at all times. Utilization is measured by the number of days in operation divided by a given number of days. This test will be for no fewer than 30 days.

16.40.280 Taxicab Digital Security Camera Systems.

- A. Digital security cameras are required in every permitted taxicab. Taxicab companies own the cameras and are responsible for their maintenance and the records produced by them.
- B. Taxicab companies must perform inspection and testing of the cameras according to the recommended product specifications, requirements and schedule.
- C. If a Portland Police Bureau Officer requests access to any record produced by the digital security camera systems to assist in the investigation of any crime, the taxi company must provide access thereto within 24 hours. Except as provided by

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Subsection 16.40.280 B., no person other than a Portland Police officer may intentionally access any record produced by the digital security camera systems.

- D.** No taxicab company or driver may allow any person to intentionally access any records produced by the digital security camera systems.
- E.** No taxicab company or driver may benefit or gain from any records produced by digital security camera systems.
- F.** No taxicab driver may tamper with, damage, disturb, remove or disable a digital security camera system in a taxicab.
- G.** Taxicab drivers must utilize the digital security camera and immediately notify the taxicab company if a digital security camera system is or appears to be damaged, stolen or inoperative.

16.40.290 Taxicab Fare Rates.

- A.** The following are the maximum rates that can be charged for the transportation of passengers in taxicabs for trips within the City limits:
 - 1.** An initial charge of \$2.50, for one passenger, and waiting time at a rate of \$30 per hour or proportionate fraction thereof;
 - 2.** Subsequent to the initial charge provided for in Subsection 16.40.290 A.1., the maximum charges may not exceed \$2.30 per mile; and
 - 3.** For each extra passenger, \$1 additional charge.
- B.** Taxi companies are authorized, per company policy, to require that passengers must use cash only to pay for fares of less than \$5. If a taxi company has such a policy in effect, it must post that policy in all taxiplated taxicabs in a manner consistent with the requirements of Subsection 16.40.290 G.
- C.** The Bureau has the authority to perform a rate study annually to determine appropriate maximum meter rates.
- D.** If there is more than one passenger during a taxi trip, the last person leaving the cab is responsible for the entire fare – regardless of when other passengers boarded or disembarked. The taximeter is started at the beginning of the trip but not again until the last passenger has arrived at that passenger's destination.
- E.** No extra charge is to be made for transporting any items belonging to a passenger if those items fit within the interior of the taxicab (including the trunk but not the

front seat), provided that the items in total can be carried by the driver and/or passenger(s) in one walking trip from the vehicle to the building entrance, and each item can be carried by a single person.

- F.** No charge is to be made for time lost or distance traveled while the taxicab is disabled. No charge is to be made for traveling empty while en route to pick up a passenger, unless the person requesting the taxicab unreasonably refuses to hire it after it arrives, in which case an amount equal to the minimum charge on file as specified in Subsection 16.40.290 A. may be charged.
- G.** A clear and complete summary of a taxi company's rate schedule must be posted in a conspicuous place in the passenger compartment of every taxicab. Every taxicab company must provide the Administrator with a copy this summary prior to posting them in the taxis. A summary of the meter rate in a form approved by the Administrator must be placed in a manner to be visible from the outside of every taxicab. If the Administrator approves a change of rate schedule upon proper filing by the taxi company, the taximeter, rate card, and rates posted must be converted for every taxicab within 30 days. The rates posted must match those used in the taximeter of any taxicab in service.

16.40.300 Wheelchair Accessible Taxicabs.

- A.** At least 20 percent of every taxi company fleet must be wheelchair accessible.
- B.** Notwithstanding Subsection 16.40.300 A., companies that participate in the Portland Accessible Cab Association Agreement (PACA) are required to have only 10 percent of their fleet wheelchair accessible.
- C.** The percentages required under this Section are calculated with respect to taxicab vehicles that are permitted by the City of Portland and not to the entire taxicab fleet if some percentage of the fleet operates outside the City. The percentages apply only to vehicles being used exclusively as taxicabs and not as specially attended transportation vehicles in conjunction with any other agency, private or government contract.
- D.** Taxi companies that participate in the PACA are required to provide wheelchair accessible taxi service within a reasonable time. It is a rebuttable presumption that any time beyond 30 minutes is unreasonable.

16.40.310 Taximeter Requirements.

- A.** Every taxicab must be equipped with a taximeter in accurate operating condition, with a lighted face that can easily be read at all times by the passenger.

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- B.** Every taximeter must be inspected by a certified taximeter installer and certified at installation, at change in rate, and within 1 year of the last inspection. A certificate of inspection must be issued by a qualified taximeter repair service upon each inspection. A copy of the certificate of inspection must remain in the taxicab.
- C.** Certificates of inspection must include:
 - 1.** The identifying number of the taximeter;
 - 2.** The make, model and license number of the taxicab in which the taximeter is installed;
 - 3.** The name of the taxicab company;
 - 4.** The date of inspection;
 - 5.** A statement that the taximeter has been inspected and approved as operating within the limits of accuracy as specified by Subsection 16.40.310 E., as well as on the basis of rates on file with the Administrator under Section 16.40.290; and
 - 6.** The signature of the individual making the certification.
- D.** Taxi companies must keep on file copies of all certificates of inspection until the taximeter is recalibrated and the certificate is no longer accurate.
- E.** Taximeters must operate within the following limits of accuracy: Plus or minus 50 feet in 1 mile and 1 second in 1 minute of waiting time.
- F.** Certificates of inspection may be examined or a taximeter re-inspected by any police officer or the Administrator at any time during normal business hours.
- G.** All taximeters must be approved by the National Type Evaluation Program (NTEP) as evidenced by a "Certificate of Conformance" issued by an authorized inspector. All taximeters must have an active NTEP Certificate of Conformance number.

16.40.320 Required Taxicab Equipment.

Every taxicab must be equipped with a top light, have seat belts for every passenger and have signage in a visible location within the taxicab that says: YOU ARE ON CAMERA. IT IS A FELONY IN OREGON TO ASSAULT A TAXICAB DRIVER.

16.40.330 Identification of Taxicab Vehicles.

- A.** Every taxicab must prominently display on both sides of the vehicle the following information:
 - 1.** the full name of the taxicab company;
 - 2.** the company-assigned taxi number;
 - 3.** the telephone number of that company where service can be requested; and
 - 4.** the word "taxi", "cab" or "taxicab".
- B.** Every taxicab must be painted in the colors of its company. No two taxicab companies may have the same colors.
- C.** Only vehicles with City-issued taxiplates may be equipped with a top light or taximeter, and only those vehicles may use the words "taxi", "cab" or "taxicab" anywhere on the vehicle, unless the company's legally registered name at the time this ordinance passes contains the word "cab".

16.40.340 Driver Conduct Requirements and Prohibitions.

- A.** No permitted driver shall:
 - 1.** Allow another person to use his/her driver's permit;
 - 2.** Drive or allow another person to drive a for-hire transportation vehicle without a valid driver's license;
 - 3.** Operate any for-hire transportation vehicle while consuming, or while under the influence of alcohol, or in a careless or reckless manner or in a manner contrary to the laws of this City or the State of Oregon;
 - 4.** Operate any for-hire transportation vehicle while consuming, or while under the influence of illegal drugs;
 - 5.** Operate any for-hire transportation vehicle if impaired by any legally-prescribed or over-the-counter drugs;
 - 6.** Use a for-hire transportation vehicle in the commission of any crime;

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7. Use profane or obscene language offensive to the passenger while operating a for-hire transportation vehicle;
 8. Smoke any substance or use tobacco in any form inside a permitted vehicle, unless it is a pedicab;
 9. Allow any passenger to smoke any substance or use tobacco in any form inside a permitted vehicle, unless it is a pedicab;
 10. Defraud a passenger in any way;
 11. Be discourteous to a passenger;
 12. Refuse to issue a fully completed receipt for a fare paid if one is requested; or
 13. Drive passengers to their destination by any other than the most direct and safe route, unless requested to do so by the passenger.
- B.** In addition to the prohibitions in Subsection 16.40.340 A. above, no taxicab driver shall:
1. Charge a fare higher than that authorized by Chapter 16.40 for passenger transportation; or
 2. Refuse to transport to his requested destination any passenger of proper demeanor who requests services or is assigned by a taxicab service company when the taxicab is not already in service, and who is able to demonstrate the ability to pay the fare.
- C.** The Administrator has the authority to investigate any and all complaints concerning possible violations of Chapter 16.40 or administrative rules adopted hereunder and to fine accordingly if a violation is found.

16.40.350 Pedicab Regulations.

Unless the context clearly requires otherwise or unless the regulations and requirements are more stringent than those found in Sections 16.40.080, 16.40.180 or 16.40.360, pedicab drivers, companies, and vehicles are subject to the regulations and requirements found in this Chapter. Pedicab drivers, vehicles and companies are specifically exempted from the insurance requirements found in Section 16.40.410.

16.40.360 Pedicab Driver and Vehicle Requirements and Prohibitions.

- A.** Pedicab vehicles are required to satisfy the following conditions when operating between dusk and dawn:
 - 1.** Make use of working battery-powered lights;
 - 2.** Be equipped with one headlight capable of projecting a beam of light for a distance of at least 500 feet; and
 - 3.** Be equipped with two red taillights mounted on the right and left area of the pedicab's rear.
- B.** No pedicab may be operated on a public sidewalk, unless it is allowed to do so pursuant to either city, county or state bicycle and tricycle traffic laws.
- C.** No pedicab may use any public street, public property or right-of-way as a waiting area unless such area is a legal motor vehicle parking area or unless it is allowed to do so as a bicycle or tricycle pursuant to city, county or state traffic laws
- D.** All pedicab drivers must have a valid driver's license or government-issued photo identification in their possession while in control of any pedicab.
- E.** No pedicab driver may exceed the pedicab manufacturer's limits on the amount of weight the pedicab may safely carry.
- F.** No bicycle or tricycle may operate as a pedicab by pulling any kind of cart, trailer or other enclosed seating contraption behind the bicycle or tricycle.
- G.** Every pedicab must be:
 - 1.** Kept clean;
 - 2.** Kept in good appearance and good repair; and
 - 3.** Kept in a safe condition.

16.40.370 Maximum Hours For Drivers.

- A.** No taxi or LPT driver is allowed to drive or be on duty (in any combination thereof) for more than 14 hours in any given 24-hour period.

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- B.** Each taxi and LPT company must maintain hours of service records for its drivers for a period of at least 1 year from the date of the driver's last for-hire service.
- C.** Both drivers and companies are subject to penalties for any violation of Section 16.40.370.

16.40.380 For-Hire Vehicle Requirements and Prohibitions.

- A.** All private for-hire transportation vehicles must be:
 - 1.** Kept clean;
 - 2.** Kept in good appearance and good repair;
 - 3.** Properly equipped, including but not limited to carrying a standard first aid kit and a fire extinguisher;
 - 4.** Kept in a safe condition; and
 - 5.** Equipped with all pollution control equipment originally installed by the manufacturer.
- B.** The use of tobacco products are prohibited in any for-hire transportation vehicle. Signs detailing this prohibition must be displayed in each taxi, shuttle and SAT vehicle in a form and manner as described in administrative rule.
- C.** The Administrator has the authority to demand that a for-hire vehicle be made available for inspection within 48 hours notice. Authorized City personnel have the authority to inspect any for-hire vehicle at any time if the vehicle:
 - 1.** is within the City limits;
 - 2.** does not have a passenger inside; and
 - 3.** is parked in the public right of way or on public property.
- D.** If the Administrator determines that the vehicle violates any provision of Section 16.40.380 A., the Administrator may issue a civil penalty and set a deadline of not less than 48 hours in which the vehicle must be in compliance. If the vehicle is not in compliance at the time of the deadline, the Administrator may suspend the vehicle permit until the violations are corrected.

16.40.390 Identification of SAT Vehicles.

All Specially Attended Transportation vehicles must prominently display on the outside of the vehicle, on both sides, the full name and telephone number of the permittee, and the words "RESERVED, NOT FOR-HIRE" on both rear doors or rear windows. All required signage must be in lettering at least 3 inches in height with proportional width and must be clearly visible at all times.

16.40.410 LPT and Taxi Insurance Requirements.

A. Coverages and Limits: All for-hire transportation company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:

- 1.** Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$1,000,000 per Occurrence and \$2,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire transportation company permit.
- 2.** Vehicle Insurance. All for-hire company permit holders, regardless of whether the company holds title to a vehicle or not, must provide the City with a copy of a valid Commercial Auto Liability policy reflecting a Combined Single Limit of not less than 500,000 per occurrence for claims arising out of, but not limited to, bodily injury and property damage incurred from the business use of any scheduled, non-owned, and hired automobile in the course of the vehicle's use as a for-hire transportation vehicle. The Commercial Auto Liability policy must comply with the mandatory laws of the State of Oregon and/or other applicable governing bodies.
- 3.** Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.

B. Additional Policy Conditions: Policies required under Subsections 16.40.410 A.1. and/or 16.40.410 A.2. must also contain, include, provide for or comply with the following:

- 1.** The Commercial General Liability and Commercial Auto Liability coverage must name the City and its officers, agents and employees as additional insureds as respects to claims, in the course of the permit

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holder's work as a for-hire transportation company, covered by such policies;

2. Policy coverages must be primary and non-contributory, and any insurance coverage maintained by the City must be considered excess.
3. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
4. The insurance policy must allow for written notice to the Administrator 30 days before any policy is canceled;
5. The insurance policy must allow for written notice to the Administrator 30 days before a policy will expire or be reduced in coverage;
6. All insurance companies issuing policies under this Section must carry at least an A.M. Best Company rating of A-, VIII or better; and
7. The adequacy of insurance coverage outlined in this Section is subject to the review and approval of the City Attorney's Office.

C. Permit Holder's Insurance Obligations. All company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:

1. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
2. The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
3. The permit holder must file with the Bureau a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.
4. The permit holder must keep a copy of the vehicle's proof of insurance in every for-hire vehicle.

D. Independent Contractors/Owner-Operators. If an independent contractor/owner-operator relationship exists with a permit holder and the independent

contractors/owner-operators provide services under the permit holder's permit, then the permit holder and the City require the same insurance coverages and limits and conditions as outlined in Subsections 16.40.410 A. - C. The same certificate of liability and additional insured endorsement requirements will apply.

- E.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Subsections 16.40.410 A. – C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

16.40.420 Pedicab Insurance Requirements.

- A.** Coverages and Limits: All pedicab transportation company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
 - 1.** Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$500,000 per Occurrence and \$1,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire transportation company permit.
 - 2.** Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.
- B.** Additional Policy Conditions. Policies required under Subsection 16.40.420 A.1. must also contain, include, provide for or comply with the following:
 - 1.** The Commercial General Liability coverage must name the City and its officers, agents and employees as additional insureds as respects to claims, in the course of the permit holder's work as a for-hire transportation company, covered by such policies;
 - 2.** Policy coverages must be primary and non-contributory, and any insurance coverage maintained by the City must be considered excess;

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3. The insurance limits are subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the permit's term;
 4. The insurance policy must allow for written notice to the Administrator 30 days before any policy is canceled;
 5. The insurance policy must allow for written notice to the Administrator 30 days before a policy will expire or be reduced in coverage;
 6. All insurance companies issuing policies under this Section must carry at least an A.M. Best Company rating of A-, VIII or better; and
 7. The adequacy of insurance coverage outlined in this Section is subject to the review and approval of the City Attorney's Office.
- C.** Permit Holder's Insurance Obligations. All pedicab company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:
1. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
 2. The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
 3. The permit holder must file with the Administrator a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.
- D.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and obligations meet the same or higher requirements as found in Subsections 16.40.420 A. – C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

16.40.430 Financial and Operating Data.

- A.** For the purposes of investigating citizen complaints and to aid in enforcement of this Chapter, the Administrator may require a for-hire transportation company to report financial and operating data, in such form and at such times as the Administrator requires. The company must compile the necessary data and submit reports to the Administrator as requested and within the timeframe demanded subject to the requirements of this Section, but in no event must the company be forced to submit this information without at least 72 hours prior notice by the Administrator.
- B.** Except as otherwise required by law, information submitted to the Administrator under this Section can only be used within the City government. Such information may not be released to the public except in aggregate form.
- C.** Notwithstanding the provisions of Subsection 16.40.430 B., information submitted under this Section may become a matter of public record as necessary to initiate, prosecute and defend an enforcement action.

16.40.440 Reports to the Administrator.

- A.** For-hire transportation companies must report any of the following events to the Administrator within 24 hours of it becoming known by any company officer or principal managing employee:

 - 1.** The arrest or conviction for any criminal offense of any officer or principal managing employee of the company involving the operation of that company;
 - 2.** Any accident required to be reported to the State of Oregon involving a company vehicle;
 - 3.** The filing of any lawsuit against or on behalf of the for-hire company related to the operation of the company;
 - 4.** The initiation of bankruptcy proceedings or corporate or partnership dissolution by the company; and
 - 5.** Any information required to be disclosed by Subsection 16.40.440 B that comes to the attention of a for-hire transportation company's management.
- B.** Every for-hire transportation driver must report any of the following events to the Administrator and to the driver's for-hire transportation company within 24 hours of its occurrence:

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1. Any arrest, charge, or conviction of the driver for any criminal offense, or any traffic violation, that occurs during, or arises out of, the driver's operation of a for-hire transportation vehicle;
2. Any arrest, charge or conviction of the driver for any criminal offense involving theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or any related offense;
3. Any vehicle accident required to be reported to the State of Oregon involving any vehicle operated as for-hire transportation by the driver; and
4. Any restriction, suspension or revocation of the driver's motor vehicle driver's license.

16.40.450 Limousine, Executive Sedan and Taxi Logs Required.

- A. Limousine, executive sedan and taxi transportation providers must maintain a log in either electronic or written form in which a record of every trip is kept.
- B. Limousine and Executive Sedan Requirements. The following information is required for each trip:
 1. customer name;
 2. passenger name if different than customer name;
 3. date and time of initial reservation;
 4. date and start and end times of trip;
 5. initial and destination addresses; and
 6. the fare amount paid.
- C. Taxi Requirements. The following information is required:
 1. date and time of initial reservation; and
 2. initial and destination addresses.
- D. The logs must be kept in a form approved by the Administrator.

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- E.** The company must retain these logs for not less than 1 year after the date of the driver's last entry.
- F.** The logs must be made available to the Administrator or other designated City staff upon request.
- G.** Except as otherwise required by law, information submitted to the Administrator under this Section can only be used within the City government. Such information may not be released to the public except in aggregate form.

16.40.460 Limousine and Executive Sedan Transportation Must Be Prearranged; Exceptions.

- A.** All limousine and executive sedan service must be provided on a prearranged basis.
- B.** Notwithstanding Subsection 16.40.460 A., limousine and executive sedan transportation providers may operate "on demand" at the Portland International Airport if permitted to do so by the Port of Portland.
- C.** Notwithstanding Subsection 16.40.460 A., limousine and executive sedan transportation providers may operate "on demand" provided that the limousine or executive sedan company has a written contract with TriMet, the Port of Portland, a major hotel, or an airline company, in which case the limousine or executive sedan company is considered "on call" for such service requests.
- D.** If a limousine or executive sedan company wishes to be considered "on demand" as provided in Subsection 16.40.460 C., the company must comply with the following conditions:
 - 1.** file with the Administrator all such contracts indicating the contracting party's name along with the beginning and ending contracted dates, and a minimum fee of \$50.00 to the airport from the downtown is required;
 - 2.** provide the Administrator with a brief description of the service provided under the contract including the specific basis for reimbursement and schedule of fees/fares;
 - 3.** provide the Administrator with notarized signatures from all contracting parties stating that the contract is currently effective and listing the end date.; and

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4. pay to the Bureau an “on demand” license fee of \$2,500 for the first vehicle and \$1,000 for each additional vehicle used to service the contract, valid for a period of 12 months from the date of the license’s issuance; and
 5. transportation provided by a third party company as part of the Contract must be prearranged, in compliance with Subsection 16.40.460 A.
- E. If a civil penalty is issued to a limousine or executive sedan company or driver because service was provided without the requisite prearranged reservation, it is no defense to assert that a valid and current contract existed at the time of the penalty but was simply not filed with the City. Limousine and executive sedan companies must file all contracts with the City prior to the acceptance of any fare “on demand”. A failure to file a contract with the City is prima facie evidence that “on demand” service does not exist with that contracting party.
- F. If a limousine or executive sedan service provider is in a marked hotel zone or loading/unloading zone, it is a rebuttable presumption that it is providing for-hire transportation services that require a reservation.
- G. Hotels are liable for a civil penalty of \$500 per occurrence for every instance in which a hotel employee, agent or independent contractor allows a hotel guest to obtain limousine or executive sedan transportation services without the required 60-minute reservation. This Subsection does not apply if the limousine or executive sedan service provider has complied with the conditions found in Subsections 16.40.460 C. and D.

16.40.470 Maximum Fares for Shuttles; No Charge for Luggage.

- A. Maximum flat rates apply for shuttles that provide for-hire transportation service between the airport and Portland’s Fareless Square and/or the AMTRAK station (in either direction), whether paid by the passenger or by a third party. The maximum rates are prescribed in administrative rules.
- B. On routes in which the maximum rates apply, shuttle operators may not charge any fee for luggage or any other allowed item that the passenger carries on board.
- C. Rates charged for shuttle services must be at least 35 percent lower, per passenger, than the prevailing taxicab rates for the same route.

16.40.480 Minimum Fares for Limousine and Executive Sedans.

- A. Minimum flat rates apply for limousine and executive sedans that provide for-hire transportation service between the airport and Portland’s Fareless Square and/or

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the AMTRAK station (in either direction), whether paid by the passenger or by a third party. The minimum rates are prescribed in administrative rules.

- B.** The minimum fare requirement in Subsection 16.40.480 A. for limousine and executive sedans does not apply if the limousine or executive sedan company has a contract on file with the City pursuant to Subsection 16.40.460 C.
- C.** Rates charged for limousine and executive sedan services must be at least 35 percent higher than the prevailing taxicab rates for the same route.

16.40.490 Safety Fund.

- A.** The For-Hire Transportation Safety Fund (Safety Fund) is designed to provide adequate funding to ensure the safety of both the riding public and the for-hire transportation drivers.
- B.** The Bureau administers the Safety Fund. The Bureau has the authority to determine appropriate expenditures of the Safety Fund for driver, passenger and vehicle safety improvements for the industries regulated by Chapter 16.40.
- C.** The Safety Fund is funded by revenues generated by permit, decal and taxiplate fees.
- D.** The Bureau will disperse Safety Fund revenues only by grant, with the grant process outlined in administrative rule. Utilization of digital security camera system grants by taxicab companies is restricted to the cost of purchase of digital security camera systems plus an amount sufficient to subsidize installation of the cameras as determined by the Board.

16.40.500 Compliance with Federal, State and Local Laws.

Any for-hire transportation company, driver or vehicle that is not in compliance with all federal, state or local laws relating to “for-hire transportation” services is likewise not in compliance with Chapter 16.40, and is subject to penalties, suspension or revocation.

16.40.510 Prior Board Orders of No Effect.

Any Board Order, Board Rule or Board Regulation in effect prior to the passage of this ordinance has no legal effect and is hereby repealed.

16.40.520 Administrative Rule Authority and Process.

- A.** The Director may implement procedures, forms and written policies for administering the provisions of Chapter 16.40.

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- B.** The Board may adopt administrative rules for administering the provisions of Chapter 16.40 under the authority granted to it in Section 16.40.050.
- C.** Before a rule is adopted, the Director must first provide notice of the proposed rule to the public in a manner reasonably calculated to accomplish such notice. The notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule, and the location where copies of the full text of the proposed rule may be obtained.
- D.** In addition to the general notice required in Subsection 16.40.520 C., the Director must also announce the proposed rule at a regularly-scheduled Board meeting (the “Announcement Meeting”) prior to the meeting in which public testimony will take place (the “Testimony Meeting”). At the Announcement Meeting, the Director will provide a copy of the proposed rule to anyone in attendance that so requests, and the Director will announce the date and time of the Testimony Meeting. The Testimony Meeting must take place no less than 14 days or more than 75 days from the Announcement Meeting.
- E.** At the Testimony Meeting, the Board will receive oral and written testimony concerning the proposed rule. Upon completion of the public testimony, the Director may then choose, at the Director’s sole discretion, to either:

 - 1.** move that the Board adopt the proposed rule as originally proposed;
 - 2.** move that the Board adopt a slightly modified version of the originally propose rule;
 - 3.** move that a substantially modified version of the originally proposed rule be considered at a later Board Meeting and with additional public testimony; or
 - 4.** withdraw the proposed rule altogether and allow no further vote on it.
- F.** If no Board member seconds the Director’s motion under Subsections 16.40.520 E.1. - E.3. above, then the proposed rule does not take effect. Only the Director can make the motion to adopt a proposed rule.
- G.** If a Board member seconds the Director’s motion to adopt the proposed rule under Subsections 16.40.520 E.1. or E.2., the Board will then consider and discuss the proposed rule, taking into account any public testimony received. Upon completion of the Board’s discussion, the Director will then call for a vote on the proposed rule. If a majority of the Board votes to adopt the rule, it is thereby adopted.

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- H.** If a Board member seconds the Director's motion under Subsection 16.40.520 E.3., then additional public review must be conducted, but no additional public notice is required if an announcement is made at the Testimony Meeting of a future hearing for a date, time and place certain at which the substantially modified rule will be discussed. After the additional testimony is received at the future hearing date, the proposed rule will be subject to the discussion, testimony and voting procedures found Subsections 16.40.520 E. - G.
- I.** Unless otherwise stated, all rules are effective upon adoption by the Board. All rules adopted by the Board will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.
- J.** Notwithstanding Subsections 16.40.520 C. and D., the Director may adopt an interim rule without prior public notice or Board action upon a finding that a failure to act promptly will likely result in prejudice to the public interest or the interest of the affected parties. If the Director adopts a rule under this Subsection, the Director must state the specific reasons for such prejudice. Any interim rule adopted pursuant to this Subsection is effective for a period of not longer than 120 days.
- K.** Administrative Rules adopted by the Board have the same force and effect as any other provision of Chapter 16.40. To the extent that any administrative rule conflicts with the provisions of Chapter 16.40, Chapter 16.40 will control and prevail.

16.40.530 Civil Penalties.

- A.** Any civil penalty assessed must be paid in full within the time ordered and under the terms and conditions specified. If either the payment is not made or the required conditions are not met, the penalty will become a suspension, which will take effect immediately upon the deadline given for payment of the civil penalty. The suspension will remain in effect until the penalty is paid in full and/or the conditions required are met.
- B.** Unless a specific civil penalty amount is prescribed by any Section of this Chapter, penalties for specific code and administrative rule violations are found in the Civil Penalty Table in Section 16.40.540. Any violation of a code Section that is not found in the Civil Penalty Table and which is not specifically prescribed by a code Section, but which places an obligation or requirement on a driver or company, will result in a penalty of \$100 for the 1st violation, \$500 for the 2nd violation and \$1,000 for 3rd violation.

16.40.540 Civil Penalty Table.

(Amended by Ordinance No. 185498, effective August 10, 2012.)

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- A. The following table outlines the penalties that will be assessed for a violation of the specific code Sections listed. In addition to the civil penalty, and the suspension and revocation provisions in Section 16.40.550, any second offense is grounds for suspension of the permit and any third or subsequent offense is grounds for revocation of the permit.

Code Section	Requirement	1st Offense	2nd Offense	Subsequent Offenses
16.40.070 D.	Fuel Surcharge Sticker	\$50	\$100	\$500
16.40.080 A.	Pedicab Driver Permit	\$500	\$1,000	\$2,500
16.40.090 A.	LPT and Taxi Driver Permit	\$1,000	\$2,500	\$5,000
16.40.100 E.	Business License	\$250	\$500	\$1,000
16.40.130 A.	LPT Company Permit	\$1,500	\$2,500	\$5,000
16.40.150 A.	Taxi Company Permit	\$1,500	\$2,500	\$5,000
16.40.180 A.	Pedicab Decal	\$250	\$500	\$1,000
16.40.190 A.	LPT Decal	\$1,250	\$2,500	\$5,000
16.40.190 B.	Taxiplate	\$1,250	\$2,500	\$5,000
16.40.210 C.	Taxi Conditions	\$1,250	\$2,500	\$5,000
16.40.220 C. - E.	Decal/Taxiplate	\$1,250	\$2,500	\$5,000
16.40.220 F.	Substitute Vehicle	\$1,250	\$2,500	\$5,000
16.40.240 A.	Decal/Taxiplate Interest	\$1,250	\$2,500	\$5,000
16.40.270	Minimum Standards	\$500	\$1,000	\$2,000
16.40.280	Security Camera	\$1,250	\$2,500	\$5,000
16.40.290 A.	Taxi Fare	\$1,500	\$2,500	\$5,000
16.40.290 D. - F.	Fares	\$500	\$1,000	\$2,500
16.40.300 A.	Wheelchair	\$500	\$1,000	\$2,500
16.40.310	Taximeter	\$1,250	\$2,500	\$5,000
16.40.320	Required Equipment	\$1,250	\$2,500	\$5,000
16.40.330	Identification	\$1,250	\$2,500	\$5,000
16.40.340	Driver Conduct	\$1,250	\$2,500	\$5,000
16.40.360	Pedicab Requirements	\$200	\$500	Suspension
16.40.370	Maximum Hours	\$1,250	\$2,500	\$5,000
16.40.380 A.- B.	Vehicle	\$1,250	\$2,500	\$5,000

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	Requirements			
16.40.380 C.	Vehicle Inspection	\$1,250	\$2,500	\$5,000
16.40.390	SAT ID	\$500	\$1,000	\$2,500
16.40.410 A.-E.	Insurance	\$1,250	\$2,500	\$5,000
16.40.420 A.-E.	Pedicab Insurance	\$1,000	Suspension	Revocation
16.40.430	Financial Data	\$250	\$500	\$1,000
16.40.440	Reports to Administrator	\$1,250	\$2,500	\$5,000
16.40.450 A.	Logs Required	\$500	\$1,000	\$2,500
16.40.450 B. - E.	Log Entries	\$500	\$1,000	\$2,500
16.40.450 F.	Log Availability	\$500	\$1,000	\$2,500
16.40.460	Prearranged	\$500	\$1,000	\$2,500
16.40.470	Maximum Fares	\$500	\$1,000	\$2,500
16.40.480	Minimum Fares	\$500	\$1,000	\$2,500

- B.** Offenses are measured by a period of 36 months. Offenses for the same violation that occur more than 36 months apart from each other are not considered “subsequent” offenses for purposes of them being the “second”, “third”, etc, offense.
- C.** Nothing in this Section prohibits the Bureau from suspending or revoking any permit, decal or taxiplat after a third offense for the same violation.

16.40.550 Company and Driver Permit Suspension and Revocation.

- A.** Suspension. Any permit, decal or taxiplat issued under Chapter 16.40 may be suspended by the Administrator if the Administrator finds reasonable grounds to believe that any of the following apply:
1. A temporary suspension is necessary to protect the public safety;
 2. The permittee’s insurance is not current; or
 3. The permittee has failed to fully pay a civil penalty when due and the permittee did not file a timely appeal.
- B.** Revocation. Any permit, decal or taxiplat issued under Chapter 16.40 may be revoked by the Administrator if the Administrator finds reasonable grounds to believe that any of the following apply:
1. The revocation is necessary to protect the public safety;
 2. The permittee did not comply with the terms and conditions of a temporary suspension;

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3. The permittee is found operating as a for-hire company or driver while on suspension;
 4. A taxi driver permittee has fraudulently altered the calibration of the driver's taximeter;
 5. The permittee provides either the City, an insurance agent or an insurance carrier with materially false information regarding vehicle insurance; or
 6. The permittee has incurred a total of five penalties and/or temporary suspensions during any consecutive twelve-month period.
- C.** Simultaneous Revocation. In the event that a for-hire transportation company permit is revoked, all vehicle decals and/or taxiplates assigned to that company are simultaneously revoked and void.
- D.** Notice Requirements for Suspensions. If the Administrator has reasonable grounds to impose a suspension based on any factor found in Subsection 16.40.550 A., the Administrator will send a "Notice of Proposed Suspension" to the permittee by both regular and certified mail (return receipt requested) at the address listed in the permittee's application form. The written notice must include the following:
1. the Administrator's findings concerning the alleged violation;
 2. notice that alleged violator has 10 days from the date of the letter in which to file a written response to the Administrator if the permittee denies that any violation has occurred;
 3. the terms, conditions and timeframe of the proposed suspension;
 4. notice that a failure to comply with the terms and conditions may result in a revocation of the permit; and
 5. the permittee's appeal rights.
- E.** Notice Requirements for Revocations. If the Administrator has reasonable grounds to revoke a permit based on any factor found in Subsection 16.40.550 B., the Administrator will send a "Notice of Proposed Revocation" to the permittee by both regular and certified mail (return receipt requested) at the address listed in the permittee's application form. The written notice must include the following:
1. the Administrator's findings concerning the alleged violation;

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2. notice that alleged violator has 10 days from the date of the letter in which to file a written response to the Administrator if the permittee denies that any violation has occurred; and
 3. the permittee's appeal rights.
- F.** Actual Notice Presumed. Actual notice of the proposed suspension or revocation is presumed after 5 days of mailing the notices described in Subsections 16.40.550 D. and E. above.
- G.** Effective Date of Suspensions and Revocations. Suspensions and revocations are effective as provided in Subsections 16.40.550 D. and E., except that they are effective immediately if the Administrator finds reasonable grounds to believe that:
1. A permittee is not covered by liability insurance as required by Sections 16.40.410 or 16.40.420; or,
 2. Continued operation by the permittee would cause, or is likely to cause, danger to the public health or safety.
- H.** Suspension Length. If the suspension resulted from the failure to pay a civil penalty or due to an ongoing code violation, the suspension continues until the penalty is paid or the violation is corrected. If no correction or payment is made within 60 days from the date that the suspension became effective, the suspension becomes a revocation. In all other cases, the suspension will be for a specific number of days and will end automatically with no further required action from the City or permittee.
- I.** Right to a Stay. Suspensions and revocations are stayed if a timely appeal is filed, unless the grounds for suspension or revocation relate to public safety issues, in which case there is no right to a stay.
- J.** Renewal Not Allowed After Revocation or During Suspensions. Permits, decals and taxiplates that have been revoked during their term are not renewable. Permits, decals and taxiplates that are in suspended status at the time of renewal are not renewable unless the suspension is for a specific number of days. Drivers and companies whose permits, decals or taxiplates were not renewable due to a prior revocation or suspension are required to successfully complete the initial application process to obtain another permit, decal or taxiplate.

16.40.560 Criminal Penalties.

(Amended by Ordinance No. 185498, effective August 10, 2012.)

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- A.** It is unlawful to tamper with a taximeter or to conduct any fraudulent scheme with the intent to charge any person a fare greater than that allowed by Chapter 16.40.
- B.** Any violation of Subsection 16.40.560 A. is punishable upon conviction by a fine of not more than \$1,000 or imprisonment for not more than 6 months or both.
- C.** In addition to the civil penalties listed in Section 16.40.540, any violation of Subsections 16.40.090 A., 16.40.130 A., 16.40.150 A., 16.40.190 A., or 16.40.190 B., is punishable, upon conviction, by imprisonment for not more than 6 months.
- D.** Vehicles operated for-hire in violation of Subsections 16.40.090 A., 16.40.130 A., 16.40.150 A., 16.40.190 A., or 16.40.190 B. are subject to vehicle towing and impoundment.

16.40.570 General Appeals.

- A.** Civil Penalties. Any person or entity assessed a civil penalty may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.
- B.** Permit/Decal/Taxiplate Denials, Suspensions and Revocations; Exception.
 - 1.** Any person or entity whose permit, decal or taxiplate application is denied, or whose permit, decal or taxiplate is suspended or revoked, may appeal that decision to the Code Hearings Officer under the provisions of Chapter 22.10.
 - 2.** If the suspension is due to a failure to timely pay a civil penalty when due, then the underlying reasons for the civil penalty may not be appealed to the Code Hearings Officer. In that situation, the person or entity may only appeal to the Code Hearings Officer to determine if the Bureau properly followed the notice requirements found in Section 16.40.550.
- C.** Limit on Number of LPT Vehicles. If the number of LPT vehicles for a particular LPT industry is capped by administrative rule, then any LPT company whose application to the Board for more LPT vehicles is denied may appeal that decision to the Code Hearings Officer pursuant to the provisions of Chapter 22.10, but only for the purpose of determining if the Bureau and the Board followed the appropriate procedures. The Code Hearings Officer may not review any factual determinations made by the Bureau or Board.
- D.** Stays. If a timely appeal is made pursuant to this Section, the action appealed from is stayed pending the outcome of the appeal. This includes any civil penalty payment, suspension or revocation.

16.40.580 Appeals Regarding Taxicab Limits.

- A.** Any taxicab company aggrieved by a decision of the Board pursuant to Section 16.40.210 may appeal such action to the City Council by filing a written notice of appeal to the Bureau within 10 days of the Board's decision. The Bureau will then forward that request to the City Auditor within 5 business days.
- B.** Within 60 days of receiving the Bureau's notice, the City Auditor will:

 - 1.** set the time for the appeal to be heard by the City Council;
 - 2.** place the hearing of the appeal upon the calendar of the Council; and
 - 3.** notify the appealing taxi company and the Administrator of the time set no less than 10 days prior to that time.
- C.** The appealing taxi company may appear personally via a company representative and/or by counsel and present such facts and arguments as may tend to support the appeal.
- D.** The Bureau will provide Council with a staff report outlining the Board's decision and the reasons therefore. The Director or his/her designee must be present at the hearing, representing the Board, to answer any questions that Council may have regarding the Board's decision.
- E.** The Council will uphold the Board's decision, reverse it, or modify it to allow more taxicabs with any conditions that the Council deems appropriate. If no Council action is taken within 60 days, the appeal is deemed denied. The Council's decision may not be appealed to the Code Hearings Officer.

16.40.590 Fee Table.

- A.** The following table outlines the fee costs associated with this Chapter.

PERMIT and APPLICATION FEES				
PERMIT TYPE	APPLICATION (nonrefundable)	INITIAL PERMIT	RENEWAL	REPLACEMENT
Taxi/LPT Driver	\$100	\$100	\$100	\$25
Pedicab Driver	\$25	\$25	\$25	\$10
LPT Company	\$250	\$500	\$500	\$75
Taxi Company	\$250	\$1,250	\$500	\$75

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Pedicab Company	\$100	\$125	\$125	\$75
Vehicle	N/A	\$225	\$180	\$75
Pedicab	N/A	\$25	\$25	\$10
GENERAL FEES				
Moving Decals or Taxiplates to Another Vehicle		\$150		
Temporary Decals During Vehicle Repair		\$25		

- B.** Fees are rounded up to a full monthly rate when being prorated for any particular decal, taxiplate or permit, regardless of what date of the month the fee is actually paid on.
- C.** For the purposes of this Fee Table Schedule, pedicabs are not considered to be LPT vehicles and are treated separately.

16.40.600 Currently Permitted Companies, Vehicles and Drivers Grandfathered; Renewal Process.

- A.** All companies, vehicles and drivers that are currently permitted by the City on the date that this ordinance passes do not need to reapply for new permits upon passage of the ordinance, but must otherwise adhere to all the requirements as found in this Chapter.
- B.** As of January 1, 2010, all previously permitted companies, vehicles and drivers must comply with all provisions of this Chapter, regardless of their permit, decal or taxiplate expiration date. All companies, vehicles and drivers are required to obtain new permits, decals and taxiplates by January 1, 2010.
- C.** To achieve the goal of staggered renewal dates, the Board may by administrative rule require that the initial permit term of some permittees be for less than the 12 month term required under this Chapter. The fees associated with any permit terms that are less than the 12 month requirement will be prorated as necessary to reflect the shorter permit duration.
- D.** Notwithstanding 16.40.600 A., all drivers that are currently permitted by the City on the date this ordinance passes must satisfy the customer service, knowledge and skills tests outlined in 16.40.090 F. – G. no later than December 31, 2010.

16.40.610 Severability.

If a court of law finds any provision of this Chapter invalid or unenforceable as to any person, business or circumstance, then that provision is considered severed from this

Chapter. The severed provision has no effect on the remainder of the Chapter or its application to other persons, businesses and circumstances.

16.40.620 Horse-Drawn Carriage Driver Permits Required – Application Process and Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Permit Required. No person may operate a horse-drawn carriage without a valid, current horse-drawn carriage driver's permit issued under Chapter 16.40, except that no permit issued pursuant to this chapter is required of a person who is operating a horse-drawn carriage as an entry in a parade or otherwise permitted special event, where the horse-drawn carriage entry is specifically noted and approved in said special event permit, and where the horse-drawn carriage rides are not being offered on-demand or by reservation to members of the general public.
- B.** Application Documents Required. The failure to submit any required application documents as listed below is grounds for denial of the permit. It is the applicant's responsibility to make certain that the information and forms required have been completed in full, and that there are no errors or omissions. Applicants for a horse-drawn carriage driver's permit must submit to the Administrator the items listed below:

 - 1. A completed application on a form provided by the Administrator;
 - 2. Proof of current residence address;
 - 3. Legal proof that the applicant is at least 18 years of age;
 - 4. A copy of the applicant's current motor vehicle driver's license, if any;
 - 5. A copy of the applicant's non-Oregon driving record, if any, for any year in which the applicant was not a resident of Oregon during the last 10 years, regardless of the jurisdiction;
 - 6. Disclosure of all applicable criminal history and driving and motor vehicle record history, as listed on the application form;
 - 7. Certification of a horse-drawn driver training program approved by the Administrator;
 - 8. Confirmation that the driver will be employed for a horse-drawn carriage company with current and valid horse-drawn carriage company and vehicle permits.

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9. If necessary, any information requested by the Administrator that reasonably relates to the application or is a clarification of information provided.
- C. Photographs. The applicant will be photographed by the Bureau after submission of the driver permit application. The photograph then becomes a part of the applicant's submittal package.
- D. Fees Required. The applicant for a horse-drawn carriage driver's permit must submit an initial permit fee of \$25, and \$25 per year renewal fee.
- E. Disqualifying Factors. The following disqualifying factors are grounds for denial of a horse-drawn carriage driver's permit:
 1. The applicant has a felony conviction of any kind within the 10 years preceding the application and permit processing;
 2. The applicant has a felony charge pending;
 3. The applicant has a felony conviction involving physical harm or attempted physical harm to a person, regardless of when the conviction occurred;
 4. The applicant has a felony charge pending involving physical harm or attempted physical harm to a person;
 5. The applicant has been convicted of any criminal offense involving animal cruelty or neglect, regardless of when the conviction occurred;
 6. During the 5-year period preceding the application and permit processing, the applicant has been convicted of a criminal offense involving:
 - a. any misdemeanor involving theft, identity theft, robbery, burglary, assault, sex crimes, drugs, prostitution, or weapons; or
 - b. any traffic crime, including but not limited to: driving under the influence of intoxicants, reckless driving, attempt to elude a police officer, or leaving the scene of an injury accident;
 7. During the 5-year period preceding the application and permit processing, the applicant had 10 or more traffic infractions as defined in ORS 801.557; or three or more serious traffic violations as defined in ORS 801.477; or three or more motor vehicle accidents required to be reported

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to the Oregon Department of Motor Vehicles pursuant to ORS 811.720; or, three or more of any combination of serious traffic violations or motor vehicle accidents as provided above;

8. During the 10-year period preceding the application and permit processing, the applicant had five or more serious traffic violations as defined in ORS 801.477; or the applicant's driving privileges were limited, suspended, or revoked by any governing jurisdiction as a result of a driving-related incident;
 9. The applicant has more than two traffic infractions or violations of any kind within the previous 12 months from the date of the application;
 10. The applicant has a current Oregon Department of Motor Vehicles license restriction, suspension or revocation;
 11. The applicant is less than 18 years old;
 12. Upon review of the applicants criminal and motor vehicle background check, and other information deemed pertinent to the application, the administrator determines that information contained in the application is false or incomplete; or
 13. Review of the applicant's traffic and criminal record, and other information the supervisor deems pertinent, is reasonable grounds for the determination that the public safety would not be served by the issuance of a driver's permit to the applicant.
- F. Driver Safety and Customer Service Training Requirements.** The applicant must provide documentation of successful completion of Bureau-approved horse-drawn carriage driver training prior to issuance of a horse-drawn driver's permit.
- G. Driver Knowledge and Skills Testing Requirements.** The applicant must successfully complete each of the following tests as administered by the Bureau or its designee before a permit can be issued:
1. Basic carriage horse care;
 2. Demonstrate ability to operate and control a horse-drawn carriage;
 3. Relevant City Code provisions and Administrative Rules.

16.40.630 Horse-Drawn Carriage Company Permits Required – Application Process and Requirements.

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(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Permit Required. No person or entity may operate a for-hire horse-drawn carriage company without a valid, current horse-drawn carriage company permit issued by the City under Chapter 16.40.
- B.** Each horse-drawn carriage company permit application must satisfy the requirements of Section 16.40.130 LPT Company Permits Required.
- C.** Applicants must provide the physical location (address) of each stable or other facility used to house the carriage horses. Each facility must be available for inspection during normal hours of operation by the Administrator or designee.
- D.** Applicants for a horse-drawn carriage company permit must obtain certification for each carriage horse to be used in the operation of the permitted carriages. Application requirements for carriage horse certification are:
 - 1.** A description of the horse's name, age, breed, gender;
 - 2.** A photograph and physical description of the horse, to include color, markings or other identifying marks, such as brands or tattoos, or any other identifiers, such as microchips;
 - 3.** Certification of examination (Health Certificate) by an equine veterinarian within thirty day days prior to the application for a permit that the horse is able to perform the work described (in the horse-drawn carriage company application) without undue stress or effort.
 - 4.** Additional veterinary certification requirements are provided in Administrative Rule.
- E.** Insurance Certificate. All horse-drawn carriage applicants must provide the Bureau with an insurance certificate of liability and an additional insured endorsement indicating that the requirements of Section 16.40.650 have been satisfied.
- F.** Applicants must provide to the Administrator a description of the types, dates and time range, length and location of horse-drawn carriage rides offered; and
- G.** Applicants must provide to the Administrator a schedule of rates and charges. An updated schedule must be provided to the Administrator when the rates are changed during the course of the permit.

- H.** Horse-drawn carriage company permit fees are: \$100 nonrefundable application fee, to be paid at the time of permit application; \$125 for initial one year permit, and \$125 per year annual permit renewal.

16.40.640 Horse-Drawn Carriage Permit and Plate Required – Application Process and Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Permit and Decal or Plate Required for Horse-Drawn Carriages. No horse-drawn carriage may be used as a for-hire transportation vehicle without a valid and current permit and a valid and current, unobstructed plate issued by the City under Chapter 16.40. Applicants for a carriage vehicle permit and carriage plate must be the owner of the carriage. Carriage permits will only be issued to an owner who has obtained a horse-drawn carriage company permit.
- B.** Application Form. The applicant for a horse-drawn carriage permit must complete a “Horse-Drawn Carriage Application” in the form required by the Administrator, which includes, but is not limited to, the following required information:
- 1.** Carriage make, model and manufacturer;
 - 2.** Seating capacity and weight limits;
 - 3.** A photograph of each carriage to be registered;
 - 4.** If necessary, any information that reasonably relates to the application or is a clarification of information provided to the Administrator.
- C.** Safety Inspection. The Board has the authority, by Administrative Rule, to require that a horse-drawn carriage operator demonstrate by inspection that all safety standards are met prior to a permit plate or decal being issued.
- D.** Horse-Drawn Carriage Condition. No horse-drawn carriage will be issued a plate or decal if the Administrator determines that the carriage is not clean and in good repair, with all required equipment in sound operating condition.
- E.** Horse-Drawn Carriage Equipment: Specific equipment requirements are provided by Administrative Rule.
- F.** Each horse-drawn carriage shall be made available for inspection at the request of the Administrator or his designee.

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- G.** Fees. Horse-drawn carriage companies must pay a \$25 initial and annual renewal fee for each horse-drawn carriage vehicle permit and plate.

16.40.650 Horse-Drawn Carriage Insurance Requirements.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Coverage and Limits: All horse-drawn carriage company permit holders must obtain, comply with, and maintain the minimum levels of insurance coverage outlined below during the entire term that the permit is valid:
- 1.** Commercial Business Insurance. Company permit holders must secure and maintain a Commercial General Liability policy reflecting limits of no less than \$1,000,000 per Occurrence and \$2,000,000 Aggregate for covered claims arising out of, but not limited to, Bodily Injury, Property Damage, Personal and Advertising Injury, and Contractual Liability in the course of the permit holder's work under a for-hire horse-drawn carriage company permit.
 - 2.** Worker's Compensation and Employers Liability Insurance. The company permit holder must secure and maintain a Workers Compensation and Employers Liability policy where required by state law.
- B.** Additional Policy Conditions. Additional insurance policy requirements are provided in Administrative Rule.
- C.** Permit Holder's Insurance Obligations. All horse-drawn carriage company permit holders must comply with the following obligations with respect to insurance reporting, updating and filing:
- 1.** The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage, even if it is later backdated by the insurance company, is subject to a civil penalty.
 - 2.** The permit holder must file a certificate of liability with the Administrator that evidences insurance coverage and terms that are in compliance with the requirements of this Section. The certificate of liability must be on a standard ACORD form or its equivalent.
 - 3.** The permit holder must file with the Administrator a copy of the insurance company-issued additional insured endorsements naming the City and its officers, agents and employees as additional insureds.
- D.** Alternative to Insurance Requirements. Alternatives to insurance, such as self-insurance, may occur only if the level of coverage and the terms, conditions and

obligations meet the same or higher requirements as found in Subsections 16.40.650 A. through C., and only if the public safety and well-being is not endangered thereby. The adequacy of proposed alternative insurance coverage is subject to approval by the City Attorney's Office before such alternative insurance may become effective.

16.40.660 Horse-Drawn Carriage Temperature, Time and Place Restrictions.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** No horse-drawn carriage may operate between the hours of 6 a.m. and 10 a.m. or between the hours of 3 p.m. and 6 p.m. except on Saturdays, Sundays and City holidays, unless an exemption from this restriction is granted by the Administrator.
- B.** No horse-drawn carriage may operate when the outdoor temperature is greater than 90 degrees Fahrenheit.
- C.** No horse-drawn carriage may operate when the outdoor temperature/humidity exceeds the Carriage Operators of North America (CONA) standards.
- D.** No horse-drawn carriage may operate in the presence of weather conditions that make horse-drawn carriage travel unsafe.
- E.** Should any condition or combination of conditions in Subsections 16.40.660 B. through D. occur, the horse-drawn carriage driver will remove the horse from the street to a safe location, provide appropriate rest and shade or shelter, and will return the horse to its stable or usual boarding facility, by the least-strenuous and shortest safe route possible.
- F.** No horse-drawn carriage may operate on a street that does not have a posted speed limit of 35 mph or less.
- G.** No horse-drawn carriage may operate along a street with MAX or street car tracks. Upon written request, permission may be granted by the Administrator, to allow brief access or crossing of streets with MAX or streetcar tracks in order to provide access to particular locations. The Administrator may provide a list of excepted circumstances and locations in Administrative Rule.
- H.** The Administrator or his designee, who observes a horse-drawn carriage operating in adverse weather or other dangerous conditions creating a threat to the health and safety of the horse, passengers, or to the general public, may order the ride discontinued and the horse returned to its boarding facility by the least-strenuous and shortest safe route possible.

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16.40.670 Operation of Horse-Drawn Carriages: Requirements and Prohibitions.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** The company and carriage permit holder is responsible to ensure that all drivers operating have a current and valid City horse-drawn carriage driver permit, and that all drivers operate in compliance with the requirements of this Chapter. Penalties may be issued to both company and driver for violations of operating requirements.
- B.** Each horse-drawn carriage must maintain unobstructed the City horse-drawn carriage permit plate in the location and manner prescribed in Administrative rule.
- C.** Each horse-drawn carriage driver must carry his horse-drawn carriage driver permit when operating a horse-drawn carriage, and present the permit for inspection when requested by the Administrator or his designee.
- D.** Each horse-drawn carriage and horse-drawn carriage operator shall comply with all other requirements of State, federal and local law.
- E.** No horse-drawn carriage driver shall permit other persons to operate the carriage under his control at any time under any circumstances.
- F.** No driver shall operate a horse-drawn carriage at a weight or capacity in excess of the manufacturer's recommendation for that carriage;
- G.** No driver shall operate a horse-drawn carriage when the combined weight of the carriage and passengers exceeds the weight of the horse;
- H.** Horse-drawn carriages and equipment must be available for inspection immediately upon request by the Administrator or his designee.
- I.** A copy of the Health Certificate for the working carriage horse, as described in Subsection 16.40.630 D., shall be in the custody of the company owner at all times. The driver will keep a copy of this Certificate in any operating carriage, and make said Certificate immediately available for inspection upon request by the Administrator or his designee.
- J.** No horse-drawn carriage driver shall leave a horse untethered or unattended except when confined to a stable or other safe enclosure.
- K.** Each driver operating a horse-drawn carriage shall maintain the horse at a speed no faster than a walk or slow trot.

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- L.** Waste catchers must be in place and functioning properly at all times. It shall be the responsibility of the horse-drawn carriage operator to clean up any spillage.
- M.** The operator of a horse-drawn carriage must comply with the orders of the Administrator or his designee, or any police officer, parking enforcement officer, or animal control officer regarding the operation of the carriage. Failure to comply with these directions is grounds for revocation of the horse-drawn carriage driver's permit and the horse-drawn carriage vehicle and company permits.

16.40.680 Care of Carriage Horses.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** Horse-drawn carriage rides must not be initiated nor continued when the ambient temperature is greater than 90 degrees Fahrenheit, or when the combination of temperature and humidity exceeds current Carriage Operators of North America (CONA) standards.
- B.** When the temperature exceeds 90 degrees Fahrenheit, or the combination of temperature and humidity exceeds current CONA standards, the carriage driver will end the ride and return the horse to the home boarding facility or pasture by the least-strenuous and shortest safe route possible, providing rest and shelter as required.
- C.** When the temperature is between 84 and 90 degrees Fahrenheit, no carriage ride will be initiated if the local weather forecast predicts temperatures to rise over 90 degrees Fahrenheit during the time for which the ride is scheduled, or within the time allowed for the trip back to the boarding facility.
- D.** When conducting horse-drawn carriage rides when the temperature is between 78 and 90 degrees Fahrenheit, the driver will monitor respiratory rate, heart rate and temperature of the horse every hour. Horses exceeding the following resting parameters should immediately undergo cooling measures, then be brought to the stable for rest, and not worked for the remainder of that day:
 - 1.** Respiratory rate > 36 breaths per minute after 1 minute;
 - 2.** Temperature > 103 degrees;
 - 3.** Heart rate > 52 beats per minute after 1 minute recovery time.
- E.** Horses must be provided with a blanket for dryness and warmth when appropriate.

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- F.** Owners, operators and drivers of a horse-drawn carriage will monitor the condition of each horse and will not allow a horse to work when there are signs of exhaustion, dehydration, sickness, disease, injury or severe stress.
- G.** No stallions, no mares with unweaned foals, and no pregnant mares at gestation greater than 9 months shall be used as carriage horses.
- H.** The towing weight of the horse-drawn carriage may not exceed the weight of the horse.
- I.** Tie ropes used around the neck or attaching to the halter shall be carried on all horse-drawn carriages. No horse shall be tied using the bridle, bit or reins.
- J.** No animal shall work pulling a horse-drawn carriage for more than 5 hours in a 24 hour period, nor more than 5 days in any given week.
- K.** Each horse will be given at least a 10 minute rest period at the end of each hour of work. The horse must be provided ready access to clean drinking water during each break, and must be allowed at reasonable intervals to consume food and water during the workday.
- L.** Stables or other boarding facilities must be sanitary. Stables and stalls must be in good repair, well-ventilated, and free of hazards and debris.
- M.** Horses must be turned out for at least one hour per day. Adequate turn-out facilities include dry paddocks, runs, or pastures of dimensions equal to or greater than 12 feet by 24 feet.

16.40.690 Horse-Drawn Carriage Regulations.

(Added by Ordinance No. 184361, effective February 11, 2011.) Unless the context clearly requires otherwise or unless the regulations and requirements are more stringent than those found in Sections 16.40.620 through 16.40.700, horse-drawn carriage drivers, companies, and vehicles are subject to the regulations and requirements found in this Chapter.

16.40.700 Horse-Drawn Carriage Penalties.

(Added by Ordinance No. 184361, effective February 11, 2011.)

- A.** For violation of the regulations and requirements in Sections 16.40.620 through 16.40.690, the penalties are \$250 for the first occurrence, \$500 for the second occurrence, and \$1,000 and permit suspension for the third occurrence.
- B.** Three or more violations within one year are grounds for permanent revocation of horse-drawn carriage driver, vehicle and company permits.

Chapter 16.48

TAXICAB REGULATIONS

(Chapter added by Ordinance No. 139316; Replaced by Ordinance No. 147243;
Repealed by Ordinance No. 165189; Reinstated by Ordinance No.165522,
and repealed by Ordinance No. 165947, effective October 28, 1992.)

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Chapter 16.50

MASS TRANSIT

Sections:

- 16.50.001 Purpose.
- 16.50.100 Designation of Transit Lanes.
- 16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.
- 16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.
- 16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours.
- 16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.
- 16.50.500 Regulation and Permit Procedure.

16.50.001 Purpose.

(Amended by Ordinance No. 182921, effective June 17, 2009.) This section describes how mass transit lanes, the Transit Mall and Auxiliary Vehicular Lanes are designated, the regulations that apply, and which vehicles may use them.

16.50.100 Designation of Transit Lanes.

(Amended by Ordinance No. 182921, effective June 17, 2009.) Designation of transit lanes, excluding the Transit Mall and Auxiliary Vehicular Lanes separately designated herein will be made by the City Traffic Engineer upon advice of the City Engineer and the Tri-County Metropolitan Transportation District of Oregon (TriMet). Designation will be shown by official signs or markings. Signs or markings will distinguish whether the transit lane may be used by:

- A. Bus only;
- B. Light rail vehicle only;
- C. Trolley or streetcar vehicle; or
- D. Carpool vehicle only; or some combination of the above.

16.50.110 Designation of the Transit Mall and Auxiliary Vehicular Lanes.

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall is hereby designated to be that portion of 5th Avenue and 6th Avenue between NW Irving Street and SW Jackson Street including NW Irving Street between NW 5th Avenue and NW 6th

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Avenue, and SW Morrison and Yamhill Streets between SW 4th Avenue and SW Broadway specifically designated with official signs or marking for the use of transit vehicles. The automobile lanes on 5th Avenue, 6th Avenue, NW Irving Street, SW Morrison Street and SW Yamhill Street adjacent the Transit Mall are hereby designated as Auxiliary Vehicular Lanes for purposes of this Section.

16.50.200 Prohibited Use of Transit Lanes, Transit Mall and Auxiliary Vehicular Lanes.

(Amended by Ordinance No. 182921, effective June 17, 2009.)

- A. Except as otherwise provided for in this Section, no vehicle may enter upon, park on, or use an officially designated transit lane, or the Transit Mall.
- B. Restrictions on transit lane use will vary depending on whether the lane is designated for light rail, motor bus, trolley, or carpool use.
- C. Except as otherwise provided for in this Section, no vehicle may stop or park on Auxiliary Vehicular Lanes except vehicles acting in compliance with law, or at the direction of a police officer or a control device or Multnomah County prisoner transfer vehicles actively transferring people.
- D. Except vehicles may cross the Transit mall to ingress or egress the following driveways provided that the vehicles shall obey all applicable traffic control devices:
 - 1. The driveway located on the west side of SW 5th Avenue immediately south of SW Jefferson Street.
 - 2. The first two driveways located on the west side of SW 5th Avenue immediately north of SW College Street.
 - 3. The driveway located on the west side of SW 5th Avenue immediately south of SW Harrison Street.

16.50.300 Vehicles Allowed In Transit Lanes, Auxiliary Vehicular Lanes and on the Transit Mall.

(Amended by Ordinance Nos. 182921 and 183979, effective August 13, 2010.) The following vehicles may enter upon, stop or park in a transit lane or the Transit Mall:

- A. A vehicle owned or operated by the Tri-County Metropolitan Transportation District of Oregon.

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- B.** A vehicle so allowed by the terms of a maintenance contract with the City of Portland or TriMet or City Transportation maintenance crews engaged in maintenance.
- C.** A police, fire, ambulance, or outpatient vehicle, if performing emergency services.
- D.** A vehicle and equipment engaged in emergency response:
 - 1.** Towing;
 - 2.** Snow removal; or
 - 3.** Street, sewer, utility, bus or fire alarm repair.
- E.** Street Car.

16.50.400 Vehicles Allowed in Non Transit Mall Transit Lanes During Certain Hours. (Amended by Ordinance Nos. 173627, 182389 and 182921, effective June 17, 2009.)

- A.** A vehicle may enter upon and park in a transit lane if the lane is closed by a street closure permit from the City Engineer per Title 17 and if the vehicle is specifically authorized to do so by the street closure permit.
- B.** A vehicle with a travel lane parking permit (16.20.550) or an angle loading permit (16.20.540) may park in a transit lane if authorized to do so by the permit.
- C.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use except during the following hours: 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, after giving notification as required by regulations governing the Special Traffic Control District (17.23.050).
- D.** A public utility or construction vehicle engaged in work on or adjacent to a transit lane may enter upon, park, and use transit lanes designated for bus-only use between the hours of 7 a.m. to 9 a.m. and/or 4 p.m. to 6 p.m., Monday through Friday, when specifically allowed during this time by a permit from the City Traffic Engineer. The City Traffic Engineer will notify Tri-Met and the City Engineer before issuing such a permit.
- E.** A vehicle requiring direct access to properties facing a transit lane for ingress/egress or special loading may enter upon and use (but not park in) the transit lane(s) between 7 p.m. and 6 a.m. A permit from the City Traffic Engineer is required for this access between 6 a.m. and 7 p.m.

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- F.** A taxicab, for hire vehicle, delivery vehicle, maintenance vehicle, or garbage truck may enter certain transit lanes during times established by the Bureau of Transportation's Administrative Rules.

16.50.410 Vehicles Allowed on the Transit Mall and Auxiliary Vehicular Lanes by Permit.

(Added by Ordinance No. 182921; Amended by Ordinance No. 183979, effective August 13, 2010.)

- A.** A public utility or construction vehicle engaged on or adjacent to the Transit Mall may enter upon, park and use the Transit Mall and/or the Auxiliary Vehicular Lanes if the Transit Mall and/or Auxiliary Vehicular Lanes are closed by permit from the City Engineer per Title 17, or TriMet access permit, and the vehicle is specifically authorized to do so by the permit.
- B.** Except in the case of emergency and as otherwise provided for herein, the City Engineer shall not issue permits for the use of Auxiliary Vehicular Lanes between the hours of 6:00 AM and 7:00 PM Monday through Friday. The City Engineer may issue permits for Saturday and/or Sunday, but permits shall not be short term closures as required for operational safety of the service provider and shall not interrupt TriMet service.
- 1.** "Emergency" shall mean any unscheduled repair of existing facilities 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.
- C.** The City Engineer may issue permits for the use of Auxiliary Vehicular Lane on SW 6th Avenue between SW Taylor and SW Morrison Streets to accommodate events permitted and authorized by Pioneer Courthouse Square, Inc. as may be deemed appropriate in the judgment of the City Engineer.
- D.** All permits shall include a traffic control plan approved by the City Engineer and Tri-County Metropolitan Transportation District of Oregon (TriMet).

16.50.500 Regulation and Permit Procedure.

- A.** The Traffic Engineer must notify the Tri-County Metropolitan Transportation District of Oregon of any rule, regulation or permit proposed to be issued under this chapter. The rule, regulation or permit will become effective on a date agreed upon by both parties. In the event of disagreement between Tri-Met and the

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Traffic Engineer, the City Council will determine whether the rule be adopted or the permit issued based upon the amount of interference to mass transit operations.

- B.** No limitation or prohibition of use herein applies to vehicles on a street intersecting or crossing a transit lane unless it is specifically designated as a transit lane.

Chapter 16.60

MOTOR VEHICLE FUELS

(Chapter added by Ordinance No. 180313,
effective August 11, 2006.)

Sections:

- 16.60.010 Definitions.
- 16.60.020 Biofuel Requirements.
- 16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.
- 16.60.030 Exemptions.
- 16.60.040 Enforcement and Notice of Violation.
- 16.60.050 Penalties.
- 16.60.060 Disclosure.
- 16.60.070 Additional Regulations.

16.60.010 Definitions.

(Amended by Ordinance No. 180671, effective January 12, 2007.) As used in this Chapter, the following terms shall be defined as provided in this section:

- A.** “B5 Fuel” means a fuel mixture consisting of 5% Biodiesel and 95% Diesel Fuel.
- B.** “B10 Fuel” means a fuel mixture consisting of 10% Biodiesel and 90% Diesel Fuel.
- C.** “B20 Fuel” means a fuel mixture consisting of 20% Biodiesel and 80% Diesel Fuel.
- D.** “Biodiesel blend stock” means 100% biodiesel fuel utilized for the purpose of blending with diesel fuel.
- E.** “Biodiesel fuel” means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM).
- F.** “Biofuel” means any fuel that is derived from plant or animal matter that meets the registration requirements for fuels and fuel additives established by the federal Environmental Protection Agency and standards established by the American Society of Testing and Materials (ASTM) as determined by the Director of the Bureau of Development Services under Section 16.60.020.D. For the purposes of this Chapter, Biofuel shall include Biodiesel and Ethanol.

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- G.** “Diesel” means petroleum based liquid that is suitable for use as a fuel in diesel powered vehicles.
- H.** “E10” means a fuel mixture of 10% ethanol and 90% gasoline.
- I.** “Ethanol” means ethyl alcohol, a flammable liquid used or sold for the purpose of blending or mixing with gasoline.
- J.** “Feedstock” means the plant or animal matter from which a biofuel is derived.
- K.** “Fuel” means all gasoline or diesel sold within the City of Portland for the purpose of operating motor vehicles on public roadways.
- L.** “Fuel distributor” means a person that causes the transportation or storage of fuel at any point between a refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer within the City of Portland.
- M.** “Gasoline” means any fuel sold for use in spark ignition engines.
- N.** “Motor Vehicle” means every inanimate vehicle which is self-propelled. For the purposes of this Chapter, the definition of motor vehicle shall not include aircraft, watercraft, or locomotives.
- O.** “Nonretail dealer” means any person who owns, operates, controls or supervises an establishment at which motor vehicles fuel is dispensed through a car or key-activated fuel dispensing device to nonretail customers.
- P.** “Reseller” means a person who purchases fuel and resells or transfers it to a retailer or wholesale purchaser-consumer within the City of Portland.
- Q.** “Retail outlet” means any establishment within the City of Portland at which fuel is sold or offered for sale to the ultimate consumer for use in motor vehicles.
- R.** “Retailer” means any person who owns, leases, operates, controls or supervises a retail outlet within the City of Portland.
- S.** “Wholesale purchaser-consumer” means any organization within the City of Portland that is an ultimate consumer of fuel, and which purchases or obtains diesel or gasoline from a fuel distributor or reseller for use in motor vehicles, and receives delivery of that product into a storage tank or directly into a vehicle’s tank.

16.60.020 Biofuel Requirements.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

A.

1. On and after July 1, 2007, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).
2. On and after August 15, 2007, all diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 5% Biodiesel (B5 fuel).

B.

1. On and after July 1, 2010, all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).
2. On and after July 1, 2010, all diesel fuel sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within the City of Portland shall contain a minimum blend of 10% Biodiesel (B10 fuel).

C.

1. On and after September 16, 2007, all gasoline sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.
2. On and after November 1, 2007, all gasoline sold by fuel retailers, dispensed by nonretailer dealers or purchased by wholesale purchaser-consumers within City of Portland shall contain a minimum blend of 10% ethanol (E10 fuel). This requirement shall remain in effect on a year round basis.

- D.** The Director of the Bureau of Development Services shall establish, and revise as necessary, standards for biofuels sold in the City of Portland. The Director shall consult specifications established for biofuels by the American Society for

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Testing and Materials, the Oregon Department of Agriculture or similar specifications, in forming its standards.

- E.** Biodiesel produced from a feedstock of palm oil may not be used to satisfy the requirements of this Chapter.
- F.** The Bureau of Development Services shall study and monitor biodiesel production, use and sales in Oregon and in the City of Portland. When the production of biodiesel from Oregon grown feedstock and used cooking oil reaches a level of at least two million five hundred thousand gallons on an annualized basis for at least three months, the Bureau of Development Services shall notify all fuel distributors, resellers, retailers, nonretail dealers and wholesale-purchaser consumers that:
 - 1.** The production of biodiesel from Oregon grown feedstock and used cooking oil has reached the level described above; and
 - 2.** That three months from the date of the notice, all biodiesel used for the purposes of satisfying the requirements of this Chapter shall contain a minimum of 50% (by volume) of biodiesel produced from used cooking oil and/or feedstock from the Genera Brassica, Camelina, Helianthus or Carthamus.
- G.** Fuel retailers shall be required to conspicuously place signage denoting the type of biofuel mixture available for sale by the fuel retailer in accordance with the labeling guidelines or rules established by the Oregon Department of Agriculture. For example, B5 fuel shall be labeled “B5 Biodiesel Blend.”

16.60.025 Additional Regulation in the 122nd Avenue Subdistrict.

(Added by Ordinance No. 180372; amended by Ordinance 180671, effective January 12, 2007.) Effective July 1, 2007, in the 122nd Avenue subdistrict of the East Corridor plan district, all fuel vendors established under the provisions of Subsection 33.521.300. F. of Title 33, Planning and Zoning, must sell a minimum blend of 20% Biodiesel (B20 fuel) at one or more pumps.

16.60.030 Exemptions.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** Any retailer who offers a biodiesel blend of 20% (B20 fuel) or greater shall be exempt from the requirements of Section 16.60.020 (A) and (B), and may also provide for sale, on the same site or a contiguous site, diesel fuel which does not contain biodiesel.

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- B.** The Director of the Bureau of Development Services may temporarily suspend or modify the minimum biofuel content requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Director's determination shall be made by filing a report with the City Council.
- C.** The requirements of this Chapter do not apply to fuel used for the operation of railroad locomotives, watercraft or aircraft.
- D.** Nothing in this Chapter is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using up to eighty-five percent ethanol fuel blends.

16.60.040 Enforcement and Notice of Violation.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A.** The Director of the Bureau of Development Services, or designee, upon determining that a violation of this code or regulations duly adopted pursuant to this Chapter has occurred, shall issue a written notice of the violation by certified mail to the fuel distributor, reseller or retailer identifying the violation and applicable penalty.
- B.** The fuel distributor, reseller or retailer shall, upon receipt of a notice of violation, correct the violation and pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer within 10 days of receipt of the notice.
- C.** A determination issued pursuant to Section 16.60.040.A may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

16.60.050 Penalties.

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

- A.** A fine of up to \$5,000 for the first violation;
- B.** A fine of up to \$10,000 for each subsequent violation.

16.60.060 Disclosure.

(Amended by Ordinance No. 180671, effective January 12, 2007.) For all sales of biofuels blended products by fuel distributors or resellers for the purposes of meeting this Chapter, the distributor or reseller must provide a bill of lading or shipping manifest disclosing biofuel content, stating volume percentage, gallons of biofuel per gallon base stock, or an "Bxx" or "Exx" designation where "xx" denotes the volume percent biofuel included in the blended product, and the feedstock from which the biofuel was derived.

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16.60.070 Additional Regulations.

(Amended by Ordinance No. 180671, effective January 12, 2007.)

- A. The Bureau of Development Services is authorized to promulgate administrative rules and take other actions reasonable and necessary to enforce this Chapter.

Chapter 16.65

FUNERAL PROCESSIONS

(Chapter added by Ordinance No. 176022,
effective November 16, 2001.)

Sections:

16.65.010 Funeral Processions.

16.65.010 Funeral Processions.

As used in this Section, funeral procession means four or more motor vehicles accompanying the body of a deceased person in the daytime, when each of such vehicles has its headlights lighted.

- A.** Pedestrians and the operators of all vehicles, except emergency vehicles, must yield the right-of-way to each vehicle which is a part of a funeral procession. Whenever the lead vehicle in the funeral procession lawfully enters an intersection, the remainder of the vehicles in such a procession may continue to follow such lead vehicle through the intersection notwithstanding any traffic control device or right-of-way provisions prescribed by statute or ordinance, provided the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian upon the streets or highway.
- B.** No person may operate any vehicle as part of a funeral procession without having the headlights of such vehicle lighted.
- C.** No operator of a vehicle may drive between vehicles in a funeral procession which are properly identified while the procession is in motion, except when directed to do so by a police officer.

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Chapter 16.70

MISCELLANEOUS REGULATIONS

Sections:

16.70.001	Purpose.
16.70.200	Pedestrians.
16.70.210	Must Use Crosswalks.
16.70.220	Must Cross at Right Angles.
16.70.230	To Obey Directions of School Traffic Patrol and Crossing Guard.
16.70.240	Bridge Railings.
16.70.300	Bicycles.
16.70.310	Persons Riding Bicycles to Obey Traffic Regulations.
16.70.320	Operating Rules.
16.70.330	Impounding Bicycles.
16.70.340	Renting Bicycles.
16.70.400	Other Transportation.
16.70.410	Roller Skates and Skateboards.
16.70.430	Train Switching Prohibited in Certain Areas
16.70.450	Off Street Parking Required for Trucks.
16.70.500	Traffic Regulations.
16.70.510	Trespassing - Leaving Pamphlet on Vehicle.
16.70.520	Hitching Onto Vehicle.
16.70.530	Central City Plan District Closed to Driving Lessons.
16.70.550	Vendor Traffic Regulations.
16.70.560	Traffic Regulations in Parks.
16.70.570	Inoperative Electric Traffic Control Signals.
16.70.600	Over Dimensional Vehicles.
16.70.610	General Prohibitions.
16.70.620	Exemptions.
16.70.630	Permits.
16.70.640	Limits of Authority to Issue Variance Permit.
16.70.650	Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.
16.70.660	Permit Must Be Carried and Displayed.
16.70.670	Movement of Building or Other Structure Excluded.
16.70.680	Liability for Damage to Streets or Other Public Property.
16.70.690	Designation of Streets for Vehicles of Excess Weight or Size.
16.70.700	Traffic Congestion Thoroughfares.
16.70.710	Purpose.
16.70.720	Posting Signs.

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- 16.70.730 Signs.
- 16.70.740 Acts Prohibited.
- 16.70.750 Penalty.
- 16.70.760 Subsequent Violation.
- 16.70.770 Notice of Towing For Subsequent Violations.
- 16.70.800 Visibility.
- 16.70.810 Street Obstructions and Dangerous Conditions.
- 16.70.900 Reckless Driving.

16.70.001 Purpose.

This Section provides traffic regulations in addition to those of the Oregon Revised Statutes that apply in the City of Portland.

16.70.200 Pedestrians.

16.70.210 Must Use Crosswalks.

No pedestrian may cross a street other than within a crosswalk if within 150 feet of a crosswalk.

16.70.220 Must Cross at Right Angles.

A pedestrian must cross a street at right angles unless crossing within a crosswalk.

16.70.230 To Obey Directions of School Traffic Patrol and Crossing Guard.

At intersections where a member of the school traffic patrol or crossing guard is stationed for the safety of school children, all pedestrians must obey the directions of such school traffic patrol member or crossing guard. It is unlawful for any pedestrian to cross at any intersection where such patrol member or crossing guard is stationed contrary to the direction of such school traffic patrol member or crossing guard.

16.70.240 Bridge Railings.

No pedestrians may sit, stand on, or lean their torso over a Willamette River bridge railing unless engaged in bridge maintenance work or otherwise authorized by an appropriate government agency.

16.70.300 Bicycles.

16.70.310 Persons Riding Bicycles to Obey Traffic Regulations.

Every person riding a bicycle upon a roadway is subject to state law and the provisions of this Title applicable to the driver of a vehicle, except state law and those provisions of this Title which by their very nature can have no application.

16.70.320 Operating Rules.

(Amended by Ord. No. 165594, July 8, 1992.) No person may:

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- A.** Leave a bicycle so that it obstructs vehicle or pedestrian traffic on a roadway, sidewalk, driveway, handicap access ramp, building entrance, or so that it prevents operation of a parking meter or newspaper rack;
- B.** Leave a bicycle secured to a fire hydrant or to a police or fire call box;
- C.** Leave a bicycle on private property without consent of the owner or legal tenant. Consent is implied on private commercial property;
- D.** Leave a bicycle on a street or other public property for more than 72 hours; or
- E.** Ride a bicycle on a sidewalk, unless avoiding a traffic hazard in the immediate area, within the area bounded by and including SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue, except:
 - 1.** On sidewalks designated as bike lanes or paths;
 - 2.** On the ramps or approaches to any Willamette River Bridge; or
 - 3.** In the area bounded by the west property line of SW Ninth Avenue, the east property line of SW Park Avenue, the north property line of SW Jefferson and the south property line of SW Salmon Street.
 - 4.** For police or special officers operating a bicycle in the course and scope of their duties; or
 - 5.** For employees of the Association for Portland Progress and companies providing security services operating a bicycle in the course and scope of their duties. These employees must have in possession an identification card issued by the Chief of Police certifying the rider has completed a training course in the use of a bicycle for security patrol.

16.70.330 Impounding Bicycles.

- A.** A bicycle left on a street or other public property for more than 72 hours may be impounded.
- B.** A bicycle may be immediately impounded if:
 - 1.** It is parked in violation of this code and obstructs or impedes pedestrian or vehicular traffic; or
 - 2.** It is an immediate threat to the public welfare.

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- C. The impounding agency must make reasonable efforts to notify the owner of the impoundment and a description of how and by what date the bicycle must be claimed.
- D. A fee may be charged to the owner of an impounded bicycle. No impoundment fee will be charged to the owner of a stolen bicycle that has been impounded.
- E. An impounded bicycle that remains unclaimed after 30 days may be disposed of in accordance with city procedures for disposal of abandoned or lost personal property.

16.70.340 Renting Bicycles.

No person may rent a bicycle to another person unless the bicycle is equipped as required by state law.

16.70.400 Other Transportation.

16.70.410 Roller Skates and Skateboards.

(Replaced by Ordinance No. 185596, effective September 5, 2012.)

- A. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any sidewalk within the area bounded by and including SW Jefferson, Naito Parkway, NW Hoyt and 13th Avenue. The middle and bisecting sidewalks in the Park Blocks are considered sidewalks for the purposes of this Subsection.
- B. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk on

 - 1. SW 5th or 6th Avenues between SW Lincoln and Burnside; and on
 - 2. NW 5th or 6th Avenues between Burnside and Union Station.
- C. No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk between the hours of 10 p.m. and 7 a.m. on

 - 1. SW Fairview Boulevard between SW Knights Boulevard and SW Kingston Avenue;
 - 2. SW Kingston Avenue between SW Tichner Drive and the Washington Park entrance;

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3. SW Tichner Drive between SW Kingston Avenue and SW Marconi Avenue;
 4. SW Marconi Avenue;
 5. SW Park Place between SW Marconi Avenue and SW Wright Avenue;
 6. SW Lafayette Place;
 7. SW Hampshire Street between SW Lafayette Place and SW Champlain Drive;
 8. SW Champlain Drive between SW Hampshire Street and SW Rutland Terrace;
 9. SW Rutland Terrace; and
 10. West Burnside Street from Skyline Boulevard to SW Vista Avenue.
- D.** No person may use roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, roadway or sidewalk while attached in any manner to any motor vehicle on the roadway. In addition, a person shall not knowingly drive a motor vehicle that is towing a person riding same.
- E.** All persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must while on a public street, traveling at less than the speed limit of the roadway shall yield to vehicles approaching from the rear by moving to the right curb or shoulder of the street.
- F.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that shows a white light visible from a distance of at least 500 feet to the front of the device.
- G.** During limited visibility conditions and between the hours of sunset and sunrise, all persons using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power must be equipped with and use lighting equipment that has a red reflector or lighting device or material of such size or characteristic and so mounted, carried or worn as to be

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visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

- H.** The penalty for failing to follow the rules of Subsections A. - G. shall be a minimum fine of \$115.
- I.** All persons under 16 years of age shall wear protective headgear when using roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon any street, sidewalk, or bridge. The penalty for failure to wear protective headgear as required in this subsection shall be a maximum fine of \$25.
- J.** Except for those provisions by their very nature can have no application, this subsection adopts the Oregon Motor Vehicle Code's rules of the road for vehicle drivers to regulate the use of roller skates, including in-line skates, skateboards, scooters, or other similar devices powered exclusively by human power upon a public highway in the City. Riders of such devices are subject to the provisions applicable to, and have the same rights and duties provided any driver of a vehicle by the Oregon Vehicle Code concerning operating on highways except when otherwise specifically provided in this Code.
 - 1.** The penalty for failing to follow the rules of the road incorporated by Subsection J. shall be a fine of \$250.
 - a.** First time offenders of this Code are eligible to participate in Share the Road or similar program in lieu of the fine.
- K.** This Section does not apply to bicycles as defined by Section 16.90.025 of this Code.

16.70.430 Train Switching Prohibited in Certain Areas.

- A.** On railroad tracks located in NW 12th Avenue between West Burnside and NW Hoyt Streets, and on railroad tracks located on NW Flanders Street, between NW 12th Avenue and NW Front Avenue, it is unlawful for any person to direct, cause, or permit switching movements of freight cars between the hours of 6 a.m. and 7 p.m.
- B.** No person may direct, cause, or permit any railroad equipment to be left or parked on the main line tracks of these streets.

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16.70.450 Off-Street Parking Required for Trucks.

A person owning or controlling any truck or truck trailer must provide at his or her own expense complete off-street parking facilities for the storage of all such equipment.

16.70.500 Traffic Regulations.

16.70.510 Trespassing - Leaving Pamphlet On Vehicle.

(Amended by Ord. No. 165987, Nov. 12, 1992.)

- A.** It is unlawful for any person to ride or trespass upon or within any motor vehicle without the consent of the owner or operator thereof.
- B.** It is unlawful for any person to post, stick, or place upon or within any motor vehicle any card, notice, handbill, leaflet, pamphlet, survey, or similar matter without the consent of the owner or operator.
- C.** The provisions of this Section do not apply to any card, notice, handbill, leaflet, pamphlet, survey, or similar matter placed upon or within such motor vehicle by authority of law, by an authorized officer of the City, County, or State or by a designee of the City Traffic Engineer.

16.70.520 Hitching Onto Vehicle.

- A.** It is unlawful for any person riding upon any vehicle, sled, or other conveyance to hitch or hold on to any part of another vehicle or conveyance for the purpose of being propelled or drawn along any street or highway within the City.
- B.** Nothing contained in this Section is deemed to prohibit the coupling of one or more motor vehicles or motor vehicle and trailer in the manner approved by ORS 818.

16.70.530 Central City Plan District Closed to Driving Lessons.

It is unlawful for any person to give or receive lessons or instructions in driving or operating any vehicle upon any street, except interstate freeways, in the Central City Plan District except for access directly to and from an institution or business located in the Central City Plan District. This Section does not apply to an applicant for a motor vehicle operator's license when accompanied by an examiner from the office of the Department of Motor Vehicles of Oregon.

16.70.550 Vendor Traffic Regulations.

(Amended by Ordinance Nos. 165594, 166575, and 176585, effective July 5, 2002.)

- A.** It is unlawful for any:

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1. Vehicle, cart, or temporary stand used to conduct business to be left unattended for 30 or more minutes or parked or stored over night on any public grounds, street, or highway. See also: 14A.50.030, 14A.50.040, 14A.50.050, 16.20.150 D., 16.60.100 F., 17.25, 17.26.
 2. Vendor to conduct business in a roadway adjacent to or directly across from residential property for a period longer than 10 minutes within any block face. Such vendor must vacate said block face for a period of 2 hours upon expiration of the 10-minute limit.
- B.** Whenever, in the judgement of the Bureau of Police, traffic is or will be congested in and around an area being used by a vendor, the Bureau of Police is hereby given authority to cause said vendors to move and remain out of the congested area.

16.70.560 Traffic Regulations in Parks.

(Amended by Ord. No. 165594, July 8, 1992.)

- A.** Except as otherwise provided in this Section, the provisions of this Title regulating street traffic and parking apply to driving or parking a vehicle in a City park or golf course.
- B.** With approval of the Commissioner In Charge, the Superintendent of Parks may restrict or prohibit traffic or types of traffic and parking in City parks and golf courses. Signs giving notice of any restriction or prohibition imposed under this Subsection shall be posted and maintained by the Superintendent in a conspicuous manner and place to inform the public. It is unlawful for any person to violate any restriction or prohibition imposed under this Subsection after notice thereof has been posted.
- C.** The Bureau of Police has authority to enforce the provisions of this Section.
- D.** The provisions of this Section do not apply to City authorized vehicles used in park or golf course service.

16.70.570 Inoperative Electric Traffic Control Signals.

An intersection with inoperative electric traffic control signals shall be treated as an uncontrolled intersection, unless other official traffic control devices have been erected at the intersection. This Section does not apply to freeway ramp metering signals operated by the Oregon Department of Transportation.

16.70.600 Over Dimensional Vehicles.

16.70.610 General Prohibitions.

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- A.** It is unlawful for any person or owner to drive, move, or to cause or permit to be driven or moved on any street in the City any vehicle or combination of vehicles that:
 - 1.** Exceeds the weight or size limitations set forth in the Oregon Revised Statutes (ORS), Chapter 818;
 - 2.** Is not constructed or equipped as required by ORS 818;
 - 3.** Is dragging upon or over the surface of a street any log, pole, piling, or other thing;
 - 4.** Does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the street;
 - 5.** Is so constructed or loaded so as to allow its contents to drop, sift, leak, or otherwise escape therefrom; or
 - 6.** Violates any other provisions of this Title.
- B.** Operation of any vehicle or combination of vehicles in violation of the provisions of this Chapter is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed pursuant to ORS 818.

16.70.620 Exemptions.

- A.** The provisions of this Chapter governing size and weight do not apply to:
 - 1.** Any vehicle, combination of vehicles, article, machine, or other equipment in use by the Federal Government, the State of Oregon, or any county or city while in the immediate vicinity of and involved with the construction, maintenance, or repair of public highways;
 - 2.** Any vehicle in use by a mass transit district for the purposes authorized under ORS 267.010 to ORS 267.390, provided the size or weight of the vehicle is approved by the City for that route; or
 - 3.** Any vehicle, combination of vehicles, article, machine, or other equipment operated under a permit issued by the Traffic Engineer and in compliance with the conditions and restrictions thereof.
- B.** None of the size limits described in ORS 818, except the maximum limit of allowable extension beyond the last axle of a combination of vehicles, apply to

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agricultural equipment hauled, towed, or moved upon any street if the movement is incidental to the farming operations of the owner of the agricultural equipment.

16.70.630 Permits.

Under authority granted in Section 16.10.200, the Traffic Engineer may grant written permits for the operation over City streets, or sections thereof, of any vehicle or combination of vehicles, including any load thereon, having:

- A. A gross weight;
- B. A length;
- C. A width;
- D. A height; or
- E. A maximum number of vehicles in combination; in excess of that authorized in ORS 818 or administratively imposed weight or size limits designated in accordance to 16.70.690.

16.70.640 Limits of Authority to Issue Variance Permit.

A permit may not be issued for any vehicle or load that can readily or reasonably be dismantled or disassembled to reduce weight or width. This does not apply to any vehicle, combination of vehicles, load, article, property, machine, or thing that is:

- A. Used in the immediate vicinity of construction, maintenance, or repair of public highways; and
- B. Of a length in excess of that permitted in ORS 818.

16.70.650 Requirements, Conditions and Procedures for Issuance of Variance Permit; Duration; Cancellation.

(Amended by Ordinance Nos. 176361 and 181217, effective September 14, 2007.)

- A. In issuing a permit, the Traffic Engineer may:
 - 1. Grant a permit that is valid for a single trip, a number of trips or an amount of time not to exceed one year.
 - 2. Establish seasonal or other time limitations on a permit.
 - 3. Require the applicant to furnish public liability or automobile insurance and property damage insurance as follows:

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- a.** General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage; or
 - b.** Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired or nonowned vehicles, as applicable; and
 - c.** The City of Portland, and its agents, officers, and employees are Additional Insured, but only with respect to operations occurring within the scope of the permit.
 - d.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
 - e.** As evidence of the insurance coverage required, the applicant shall furnish acceptable insurance certificates to the City prior to issuance of any permit. The certificate will specify that the City is additional insured and will include the 30-day cancellation clause. Insuring companies or entities are subject to City acceptance. The applicant shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.
- 4.** Require the applicant to furnish indemnity insurance or an indemnity bond in an amount fixed by the Traffic Engineer to:
 - a.** Reimburse the City of Portland for any damage to the highways or streets that may be caused under the permit; and
 - b.** Indemnify the members, officers, employees, and agents of the City of Portland from any claim that might arise from the granting of the permit and from the use of the highways under the permit.
- 5.** Require a demonstration by the applicant to establish that any vehicle, combination of vehicles, load, article, property, machine, or thing in operation under a permit would:
 - a.** Stay on the right side of the center line of the traveled way at all times; and
 - b.** Allow sufficient room in the opposing traffic lane for the safe movement of other vehicles.

- B.** A permit must be in writing and must specify:
1. All highways or streets over which the permit is valid;
 2. Any vehicle, combination of vehicles, load, article, property, machine, or thing allowed under the permit; and
 3. Maximum dimensions and maximum weights allowed under the permit.
- C.** Under this section, the Traffic Engineer may not issue a permit that is valid for longer than 1 year.
- D.** An application for a permit issued under this section must specify:
1. The vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is requested;
 2. The particular highways and streets for which the permit is sought; and
 3. Whether the permit is sought for a single trip, a number of trips or continuous operation.
- E.** This section does not authorize:
1. Any vehicle, combination of vehicles, load, article, property, machine, or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code, except as specified in a permit; or
 2. Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine, or thing until a permit is issued.
 3. Any vehicle, combination of vehicles, load, article, property, machine, or thing which is eligible for a permit under the State of Oregon Continuous Operation Variance Permit program as described in OAR 734.074.0010.
- F.** The City Traffic Engineer may be present during the movement. The presence of the City Traffic Engineer and any directions or suggestion made by him/her is not to be considered supervision of the movement and does not relieve the permit holder or the permit holder's insurers or sureties from liability for any damage done by the movement. If there are any of the permit's terms or conditions with which the movement does not comply, the City Traffic Engineer who is present at the movement may order it to be stopped.

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- G.** Any permit may be canceled at any time by the City Traffic Engineer upon satisfactory proof that:
- 1.** The permit holder has violated any of the terms of the permit;
 - 2.** The permit was obtained through misrepresentation in the application therefor; or
 - 3.** The public interest requires cancellation.

16.70.660 Permit Must Be Carried and Displayed.

- A.** The driver of any vehicle or combination of vehicles for which a variance permit has been issued commits the offense of failure to carry and display a variance permit if the driver does not:
- 1.** Have the variance permit in immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway or street; and
 - 2.** Display the variance permit upon demand of any police officer, department or county weighmaster, judicial officer, or the City Traffic Engineer.
- B.** Later producing a variance permit issued prior to and valid at the time of an offense by authority of this section is not a defense for a charge under this section.

16.70.670 Movement of Building or Other Structure Excluded.

The movement of buildings or other structures on or over the streets and other public right-of-ways of the City is excluded from the provisions of this Chapter. (See Chapter 17.48, Public Improvements.)

16.70.680 Liability for Damage to Streets or Other Public Property.

Any person moving any vehicle of excess weight or size on or over any street or other public right-of-way in the City is responsible for damage to pavement or other public improvement or property caused thereby.

16.70.690 Designation of Streets for Vehicles of Excess Weight or Size.

- A.** When in the judgement of the City Traffic Engineer any City street or section thereof is capable of carrying any vehicle or combination of vehicles having a gross weight or overall size in excess of that authorized in ORS 818, the City Traffic Engineer may report to the City Council so declaring that street and fixing

the maximum gross weight, width, height, and/or length and types and classes of vehicles or combination of vehicles which may be operated thereon.

- B.** The provisions of any report accepted by the City Council pursuant to recommendation of the City Traffic Engineer under this Section may be changed or rescinded at any time and is subject to any order made pursuant to Section 16.10.200.
- C.** If a report submitted by the City Traffic Engineer under this Section is accepted by the City Council, a duplicate original thereof (and any amendment or revocation thereof) must be filed by the Auditor with the Secretary of State. After such resolution is adopted and filed, no permit is required for the operation upon such street or section thereof of a vehicle or combination of vehicles not exceeding the maximum gross weight and length fixed by the report for vehicles or combinations of vehicles of that type and class.

16.70.700 Traffic Congestion Thoroughfares.

16.70.701 Purpose.

The purpose of this Chapter is to prohibit the repeated driving of a motor vehicle along and across one portion of a congested public street, which constitutes a strict liability violation without any requirement of culpable mental state, all as described in this Chapter.

16.70.720 Posting Signs.

With respect to any traffic congestion thoroughfare, the Chief of the Bureau of Police or his/her designee is authorized to declare that portion of the street to be a traffic congestion thoroughfare and to cause signs, as described in this Chapter, to be posted notifying of that designation.

16.70.730 Signs.

The signs referred to in Section 16.70.720 will notify drivers that they are entering a traffic congestion thoroughfare; that repeated passage of a motor vehicle through or across the traffic congestion thoroughfare is a violation of City Code Section 16.70.740; and that for a subsequent violation, the vehicle will be towed.

16.70.740 Acts Prohibited.

Between the hours of 9 p.m. and 5 a.m. of the following morning, no vehicle may pass along or across a traffic congestion thoroughfare, designated as such by signs as described in Section 16.70.730, more than two times.

16.70.750 Penalty.

(Amended by Ordinance Nos. 165987 and 176394, effective April 17, 2002.) Violation of this Chapter is an infraction punishable by a fine not to exceed \$150.

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- A.** Except as provided below, violation of this Chapter is an infraction punishable by a fine not to exceed \$150.
- B.** Violation of Sections 16.20.470, 16.70.510 A, 16.70.210, 16.70.220 and 16.10.060, is punishable by a fine of not more than \$500, or by imprisonment not exceeding 10 days or both.

16.70.760 Subsequent Violation.

If a vehicle passes along or across a traffic congestion thoroughfare as designated by signs in violation of Section 16.70.740, any single subsequent drive-through of that traffic congestion thoroughfare by that vehicle within the same 9 p.m. to 5 a.m. time period constitutes a separate violation of Section 16.70.740, punishable as provided in section 16.70.750; and the vehicle may be towed and taken to a storage area designated by the City and may be held for not more than 24 hours, all at the expense of the owner or person entitled to possession.

16.70.770 Notice of Towing For Subsequent Violations.

Upon issuing a citation for a violation of Section 16.70.740, the officer will give the person to whom the citation is issued a written notice which will state:

NOTICE

You have been cited for violation of Code Section 16.70.740 for repeated passage of a motor vehicle on or across a traffic congestion thoroughfare.

If the vehicle you are driving is again driven along or across this traffic congestion thoroughfare before 5 a.m. this morning, this vehicle may be impounded and towed in accordance with City Code Section 16.70.760.

Chief of the Bureau of Police

16.70.780 Exemptions.

This Section does not apply to:

- A.** Any publicly owned vehicle of any city, county, public district, state, or federal agency;
- B.** Any vehicle licensed for public transportation; or
- C.** Any other vehicle granted an exemption by the Chief of Police because passage of the vehicle along or across the traffic congestion thoroughfare is necessary for commercial or medical reasons.

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16.70.800 Visibility.

(Amended by Ordinance Nos. 165987, 173369 and 183397, effective January 8, 2010.)

- A.** It is the responsibility of the owner or occupant of any property to prevent any vegetation or street tree on the property or the abutting public right-of-way from partially or wholly obstructing the visibility of traffic control devices, the visibility of or for drivers, bicyclists, or pedestrians, or in any way presents a safety hazard.
- B.** The person who owns or occupies said property is liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or prune such vegetation as required by Title 16 or any other Title of the City Code. Furthermore, said person is liable to the City of Portland for any judgement or expense incurred or paid by the City, by reason of said person's failure to satisfy the obligations imposed by this or any other Title of the City Code.
- C.** Any street tree removal or pruning required by this Title must be done in accordance with the provisions of Title 20.
- D.** Vegetation, including trees, in green street or other public stormwater management facilities, shall be trimmed only by the City or under the authorization of the Bureau of Environmental Services (BES).
- E.** Any vegetation or street tree not removed or pruned as required in this Title is hereby declared to be a public nuisance and may be summarily abated as provided in Title 29.
- F.** Whenever the provisions of this section conflict with those of any other section of this code, including but not limited to Titles 16, 17, 18, 20, and 33, the stricter provisions shall govern.

16.70.810 Street Obstructions and Dangerous Conditions.

(Added by Ordinance No. 176585, effective July 5, 2002.) No person, whether acting as private citizen, principal, employee or agent shall:

- A.** Between the hours of sunset and sunrise, place or allow to remain on any street any obstruction, other than a lawfully parked vehicle or any permitted structure, unless a clearly displayed warning light or lights are:

 - 1.** plainly visible for 200 feet in either direction parallel to the street and at least 25 feet in all other directions, and
 - 2.** placed on the edge or side of the obstruction nearest the center of the street.

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- B.** At any time, create a dangerous condition on any street without erecting and maintaining a distinctly visible barricade which provides a clear indication of the danger and directs people safely around it; and/or
- C.** Remove such a barricade from any street while the danger continues.

16.70.900 Reckless Driving.

(Added by Ordinance No. 173097, effective by February 10, 1999.)

- A.** A driver of a vehicle commits the crime of reckless driving within the City of Portland if the driver commits two or more of the following violations in a single series of acts in such a way as to endanger the safety of persons or property:
 - 1.** Unlawful or unsignaled lane change;
 - 2.** Unsafe passing on the left or right;
 - 3.** Passing in a no-passing zone;
 - 4.** Following too close;
 - 5.** Illegal backing;
 - 6.** Unlawful stop or deceleration;
 - 7.** Failure to signal;
 - 8.** Violation of maximum speed limit in an urban area; or
 - 9.** Taking other actions that a reasonable driver would know endanger the safety of persons or property in a congested urban driving environment such as the City of Portland.
- B.** Violation of this law shall constitute a Class A Misdemeanor as prescribed in State law.

Chapter 16.90

DEFINITIONS

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16.90.380	Traffic Control Signal.
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16.90.001 Generally.

The following words and phrases when used in this Title shall, for the purpose of this Title, have the meanings respectively ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning. Definitions of words and phrases in the Oregon Revised Statutes may be applied unless defined differently in this Title or in those instances where the context clearly indicates a different meaning.

16.90.005 Abandoned Vehicle.

(Amended by Ordinance No. 179141, effective March 23, 2005.) A vehicle that remains in violation for more than 24 hours and one or more of the following conditions exist:

- A. The vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration.
- B. The vehicle appears to be inoperative or disabled.
- C. The vehicle appears to be wrecked, partially dismantled or junked.

16.90.010 Accessory Recreational Vehicle.

See Recreational Vehicle.

16.90.015 Alley.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular movement.

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16.90.020 Angle Loading.

When a vehicle is parked at an angle to traffic flow for the purpose of loading/unloading and extends into the public right-of-way anywhere outside of a legal parking area.

16.90.025 Bicycle.

A type of vehicle that:

- A.** Is designed to be operated on the ground on wheels;
- B.** Has a seat or saddle for use of the rider;
- C.** Is designed to travel with not more than three wheels in contact with the ground;
- D.** Is propelled exclusively by human power; and
- E.** Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.

16.90.030 Bicycle Boulevard.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) A roadway with low vehicle traffic volumes where the movement of bicycles is given priority.

16.90.032 Bicycle Lane.

(Added by Ordinance No. 177028, effective December 14, 2002.) The part of the street designated by official signs or markings for the movement of persons riding bicycles except as otherwise specifically provided by law.

16.90.034 Bikeway, Shoulder.

(Added by Ordinance No. 177028, effective December 14, 2002.) A street upon which the paved shoulder, separated by a four-inch stripe and no bicycle lane markings, is used for the movement of persons riding bicycles. Auto parking is also allowed on shoulders marked in this manner.

16.90.035 Bicycle Path.

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

16.90.036 Bikeway, Extra Width Curb Lane.

(Added by Ordinance No. 177028, effective December 14, 2002.) A wider than normal curbside travel lane provided to give extra room for the movement of persons riding bicycles where there is insufficient space for a bicycle lane or shoulder bikeway.

16.90.038 Bikeway, Off-Street Path.

(Added by Ordinance No. 177028, effective December 14, 2002.) An off-street path for the movement of persons riding bicycles that is physically separated from motorized

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vehicular traffic by an open space or barrier and either within a street right-of-way, but not in the roadway, or within an independent right-of-way or dedicated easement.

16.90.040 Bikeway, Signed Connection.

(Replaced by Ordinance No 177028, effective December 14, 2002.) A bikeway upon which signing is placed to direct bicyclists to a destination or another bikeway.

16.90.045 Block Face.

The area between the line separating a public right-of-way from private property and the center line of a street or highway, and between the midpoint of two intersections.

16.90.050 Bureau of Transportation System Management.

(Repealed by Ordinance No. 182389, effective January 2, 2009.)

16.90.055 Carpool Vehicle.

- A. Any vehicle that is designed by its manufacturer to seat three or more people and is utilized to transport on a regular basis, three or more people including the driver, from a point of origin to a destination.
- B. For the purpose of this Title of the City Code, carpool vehicle specifically means any vehicle described in A. above, which displays a carpool permit issued by the Tri-County Metropolitan Transportation District of Oregon.

16.90.060 Central City Plan District.

The Central City Plan District is defined in Title 33 of this code. For purposes of this Title, however, regulations that apply to the Central City Plan District apply to the whole street (up to the property line or extension of a property line to the corner of a property line across an intersection) of the streets whose center lines serve as boundaries to the Central City Plan District.

16.90.065 City Recognized Holidays.

City recognized holidays are:

- A. New Year's Day;
- B. Martin Luther King Jr.'s Birthday;
- C. President's Day;
- D. Memorial Day;
- E. Fourth of July;

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- F.** Labor Day;
- G.** Veteran's Day;
- H.** Thanksgiving Day; and
- I.** Christmas Day.

A day begins at 12:00:00 a.m. and ends at 11:59:59 p.m.

16.90.070 Compact Car.

Any vehicle which will fit within the space lines of a space designated for compact cars by official signs or markings.

16.90.075 Conduct Business.

The act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

16.90.080 Construction Zone.

The space adjacent to the curb and in immediate proximity to the premises where construction, alteration, remodeling, repairing, or similar work is in progress, and designated by official parking meter or sign hoods, signs, or markings.

16.90.085 Crosswalk.

Any portion of a roadway at an inter-section or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked cross- walks have been indicated, such cross- walks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- A.** Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
 - 1.** The connections of the lateral lines of the sidewalks, shoulders, or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
 - 2.** The prolongation of the lateral lines of a sidewalk, shoulder, or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.

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- B.** If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than 6 feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

16.90.090 Curb.

Any raised margin defining the space in the street devoted to vehicular traffic.

16.90.095 Curb Line.

The curb line separates a street or highway into the area dedicated to vehicle traffic (roadway) and the area dedicated to pedestrian and nonmotor vehicle traffic (planting strip, sidewalk, etc.).

16.90.100 Driver.

The rider, driver, or leader of any animal or vehicle that is not self-propelled and the operator of any vehicle that is self-propelled.

16.90.105 Driveway.

- A.** A road or access, whether improved or unimproved, extending from a public right-of-way onto private or public lands or structures for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious opening for access. For purposes of enforcement, a driveway:
- 1.** Extends from one curb return to the other;
 - 2.** If winged, includes the wings; or
 - 3.** If the street is unimproved, the driveway area falls between the projections of the edges of an improved driveway or the most established tire ruts of an unimproved driveway.
- B.** Such road or access will be enforced as a driveway unless closed by a structure or permanent closure device.

16.90.110 Drop Box.

A container in which trash or any other refuse material is temporarily stored or collected. For the purposes of Title 16, a drop box will be considered a vehicle in terms of parking provisions and restrictions.

16.90.115 Emergency Vehicles.

(Amended by Ordinance No. 180917, effective May 26, 2007.) Vehicles of Portland Fire & Rescue, police vehicles, emergency vehicles of municipal departments, and

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ambulances while being used for emergency purposes and displaying lights as required by the Oregon Revised Statutes.

16.90.120 Fire Station.

Any building used for the purpose of housing fire apparatus of the City.

16.90.125 Fog Line or Edge Line.

The official 4-inch wide marking that defines the lateral lines of a roadway.

16.90.130 Gross Vehicle Weight Rating.

The value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle or the registration weight, whichever is greater.

16.90.135 Guest.

As used in a regulated parking zone sign, means a patron or visitor to the adjacent hotel.

16.90.140 Handicap Access Ramp.

An inclination, ramp-like structure, or any other such device designed to serve and provide ease of access from the sidewalk to the roadway or from the street to adjacent property for individuals using a mobility aid. If winged, it includes the winged area of the structure.

16.90.145 Hotel.

Any structure intended or designed for transient occupancy and which offers more than 25 percent of its rooms for dwelling, lodging or sleeping purposes for less than a 30 day period.

16.90.150 Improper Use.

Improper use occurs when a permit holder violates the provisions described on the permit application.

16.90.155 Intersection.

The area of a roadway created when two or more public roadways join together at any angle, as described in one of the following:

- A.** If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- B.** If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- C.** The junction of an alley with a roadway does not constitute an intersection.

- D.** Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection.

16.90.160 Light Rail Transit System.

A commuter transit mode consisting of steel-wheeled rail vehicles, powered electrically through overhead lines, operating predominately on exclusive right-of-way that need not be grade separated.

16.90.165 Light Rail Vehicle.

A component car in a light rail transit system.

16.90.170 Load/Unload.

To load or unload a vehicle means to be actively engaged in removing merchandise from or putting merchandise in a vehicle.

16.90.175 Local Authorities.

Every county, municipality, and other local board or body having authority to adopt local police regulations under the constitution and laws of this State.

16.90.180 Long-Term Parking Meter.

A parking meter with a designated time limit of more than 4 hours.

16.90.185 Mobile Construction Trailer.

A trailer that is used temporarily in conjunction with a construction site for office and other related purposes.

16.90.190 Motor Bus.

Every motor vehicle designed or used for carrying passengers and their personal baggage for compensation. The term “motor bus” does not mean or include taxicabs designed or constructed to accommodate and transport not more than five passengers, exclusive of the driver, and fitted with taximeters or using or having some other device, method, or system to indicate and determine the passenger fare paid for distance traveled.

16.90.195 Motor Home.

See Recreational Vehicle.

16.90.200 Motor Vehicle.

Every inanimate vehicle which is self-propelled.

16.90.205 Municipal Terminal.

Any property owned or operated by the Port of Portland for the provision of port services.

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16.90.210 Official.

By authority of or recognized by law or code.

16.90.215 Official Vehicle.

Any government vehicle so identified by public registration plates.

16.90.220 Official/Reserved Zone.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any space adjacent to the curb or edge of the roadway, or on City of Portland owned or operated property, which is exclusively reserved for those vehicles which have been assigned the use of such space through official permits or other means of designation.

16.90.225 Operator.

Any person who is in actual physical control of a vehicle.

16.90.230 Parade.

Any group of persons and/or vehicles moving on a street or streets of the City under permit as herein provided in accordance with a plan or common purpose for a celebration, display, exhibition, show, or advertisement, whether for public, semi-public, or private purposes, but does not include funeral processions or advertising vehicles operating under the provisions of Title 7.

16.90.235 Park, Parking, or Parked.

The stopping or standing of any vehicle upon any street or highway within the City, whether such vehicle is occupied or not. It does not mean stopping or halting temporarily for less than 30 seconds to load/unload passengers, or in obedience to traffic regulations, signs, signals, or officers.

16.90.240 Parking Lane.

The area between the curb and not more than 8 feet from the curb or curb line or as shown by official street markings. The parking lane is generally intended for vehicle parking. Parking regulations may apply to the parking lane area according to the provisions of Title 16 of the Portland City Code.

16.90.245 Parking Meter.

(Amended by Ordinance Nos. 176394 and 179141, effective March 23, 2005.) A device placed at or near the curb adjacent to the street area, or on City of Portland owned or operated property authorized by the City and designed to register the duration of the parking time and the limit thereof, upon payment by a U.S. coin or a payment card. Parking meter includes a pay station.

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16.90.247 Payment Card.

(Added by Ordinance No. 176394, effective April 17, 2002.) A valid credit, debit or stored value card.

16.90.249 Space Reservation Device.

(Added by Ordinance No. 176394; amended by 179141, effective March 23, 2005.) A hood that is secured over a parking meter or a marker that is placed near the curb of the parking space, which contains administrative information on permit holder and regulations.

16.90.250 Pedestrian.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A person afoot; a person operating a pushcart; a person riding on or pulling a coaster wagon, sled, scooter, tricycle, bicycle with wheels less than 14 inches in diameter, or a similar non-motorized vehicle; or on roller skates, skateboard, wheelchair, or a baby in a carriage.

16.90.255 Pedestrian Way.

(Amended by Ordinance No. 177028, effective December 14, 2002.) A facility intended for pedestrian movement.

16.90.260 Permanently Exhibit.

To display affixed to a vehicle so that the sign may not be removed from the vehicle without mechanical tools.

16.90.265 Person.

A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

16.90.270 Planting Strip.

The area between the curb or edge of the roadway and an improved sidewalk.

16.90.275 Private Road.

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

16.90.280 Public Right-of-Way.

(Repealed by Ordinance No. 177028, effective December 14, 2002.)

16.90.285 Rail Vehicles.

Any steel-wheeled vehicle(s) propelled on fixed steel rails, including, but not limited to: trolleys; light rail vehicles; and diesel- powered trains.

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16.90.290 Recreational Vehicle.

A vehicle which is designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:

- A.** Motor Home. A motor vehicle designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck.
- B.** Accessory Recreational Vehicle. A nonmotor vehicle designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is not on the back of a pick-up or truck. Accessory recreational vehicle also includes vehicles designed for off-road use such as off-road vehicles, dune buggies, and recreational boats.

16.90.295 Regulated Parking Zone.

(Amended by Ordinance No. 179141, effective March 23, 2005.) A space adjacent to a curb or curb line, designated by official signs or markings, where special regulations for parking or stopping a vehicle apply in addition to the general parking regulations that apply to all parking areas in the public right-of-way, or on City of Portland owned or operated property.

16.90.300 Repair (a vehicle).

To perform work on the motor, mechanical, or body parts of a vehicle.

16.90.302 Right-of-Way.

(Added by Ordinance No. 177028, effective December 14, 2002.)

- A.** The area between property lines of a street, easement, tract or other area dedicated to the movement of vehicles, pedestrians and/or goods.
- B.** A public right-of-way is dedicated or deeded to the public for public use and under the control of a public agency.
- C.** A private right-of-way is in private ownership, for use by the owner and those having express or implied permission from the owner, but not by others.

16.90.305 Roadway.

(Amended by Ordinance No. 177028, effective December 14, 2002.) The portion of a street or highway improved for vehicle movement, including any parking lane. On an improved street, the area between the curbs or edge lines of a street.

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16.90.310 School Bus.

A motor bus owned or operated by authority of any lawfully recognized school district.

16.90.315 Service (a vehicle).

To perform routine maintenance such as replacing fluids or charging batteries. It does not include repairs to motor or body parts.

16.90.320 Short-Term Parking Meter.

A parking meter with a designated time limit of 4 hours or less.

16.90.325 Shoulder.

The portion of a public street or highway without curbs, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

16.90.330 Sidewalk.

The portion of the street between the curb or lateral lines of the roadway and the adjacent property lines, intended for use by pedestrians. An improved sidewalk is a pedestrian walkway with permanent surfacing in the sidewalk area of a street or highway.

16.90.335 Skateboard.

A board of any material, natural or synthetic, with wheels affixed to the underside, designed to be ridden by a person.

16.90.340 Sled.

Vehicles that do not move exclusively on revolving wheels in contact with the surface of the road or on fixed rails.

16.90.345 Stop, Stopping, or Stopped.

Any halting, even momentarily, of a vehicle, whether occupied or not, except to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

16.90.350 Street or Highway.

(Amended by Ordinance No. 177028, effective December 14, 2002.) The entire width of a right-of-way when any portion thereof is intended for motor vehicle movement or motor vehicle access to abutting property.

16.90.351 Storage Container.

(Added by Ordinance No. 179141, effective March 23, 2005.) A Storage Container in which any material is temporarily stored or collected. For the purposes of Title 16, a storage container will be considered a vehicle in terms of parking provisions and restrictions.

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16.90.355 Taxicab.

Any motor vehicle which carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly licensed by the City of Portland as a taxicab.

16.90.360 Tire.

The band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road, or, if no band is used, then it means the tread or runner of a sled.

16.90.365 Traffic.

(Amended by Ordinance No. 177028, effective December 14, 2002.) Pedestrians, ridden or herded animals, and vehicles, either singly or together, while using any street or highway for purposes of movement or parking.

16.90.370 Traffic Congestion Thoroughfare.

Any portion of a street or highway within the City affected by traffic congestion caused in whole or in part by the repeated driving of the same motor vehicles along or across that portion of the thoroughfare.

16.90.375 Traffic Control Device.

- A.** All signs, signals, markings, and devices consistent with this Title placed or operated by direction of the City Traffic Engineer for the purpose of guiding, directing, warning, or regulating traffic or parking.
- B.** Any device that remotely controls by electrical, electronic, sound, or light signal the operation of any device identified in subsection (A) of this definition.

16.90.380 Traffic Control Signal.

Any device, whether manually, electrically, or mechanically operated, by which traffic is directed. An electric traffic control signal is considered inoperative when none of the signal control indications are illuminated.

16.90.385 Traffic Hazard.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Any object, including vehicles, that impede the safe movement of vehicles in the public right-of-way or, on City of Portland owned or operated property.

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16.90.390 Traffic Lane.

(Amended by Ordinance No. 177028, effective December 14, 2002.) An area of a street or highway, designated by official signs or markings, as dedicated to the movement of one vehicle at a time.

16.90.392 Transit Mall and Auxiliary Vehicular Lanes.

(Added by Ordinance No. 182921, effective June 17, 2009.) The Transit Mall and Auxiliary Vehicular Lanes shall be designated in Section 16.50.110. An emergency is defined in Subsection 17.23.020 E.

16.90.395 Tri-Met Bus.

A motor bus owned or operated by the Tri-Metropolitan Transit District of Oregon.

16.90.400 Trolley or Streetcar.

(Amended by Ordinance No. 175564, effective May 9, 2001.) An electric or diesel powered, steel wheeled rail vehicle, operating on steel rails, used to transport passengers.

16.90.405 Truck.

(Amended by Ordinance No. 179141, effective March 23, 2005.) Every motor vehicle designed, used or maintained primarily for the transportation of property, goods or providing a service, tow truck with passenger plates, step vans, vehicle length or width or height greater than original manufacturer's vehicle dimensions, and meeting the description as defined by DMV registration as a truck, van or pickup.

16.90.410 Truck Trailer.

A vehicle which is not a recreational vehicle or utility trailer, is more than 16 feet in length, and is designed to be pulled by a motor vehicle.

16.90.415 Uncontrolled Intersection.

Any intersection with no official traffic control device to designate vehicular right-of-way.

16.90.420 Utility Trailer.

A vehicle which is used to carry property, refuse, or special equipment, is 16 feet or less in length and is designed to be pulled by a motor vehicle. Boat trailers are included as utility trailers no matter what their length.

16.90.421 Valid Receipt.

(Added by Ordinance No. 179141, effective March 23, 2005.) A parking meter receipt dispensed from a City of Portland Parking Meter device indicating the valid date, time purchased, expiration time, watermark, or any other identifications showing validity of receipt. The receipt issued is valid only in the designated meter district where purchased.

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16.90.425 Vehicle.

(Amended by Ordinance No. 177028, effective December 14, 2002.) Every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway. Bicycle is more specifically defined in Section 16.90.025.

16.90.430 Vehicle Alarm System.

Any device, equipment, assembly, or system designed, arranged, or intended to sound an alarm horn, siren, klaxon, or other sound emitting device to signal an entry or attempted entry into, or tampering with, a vehicle.

16.90.435 Vendor.

Any person who conducts business in the public right-of-way or any other public property.

16.90.440 Way.

(Added by Ordinance No. 177028, effective December 14, 2002.) A facility for the movement of pedestrians, vehicles or goods, the specific user or users being determined by modifying words, such as road, bicycle, pedestrian, etc. Path and lane are synonyms for way, and likewise may be given a more specific meaning through use of a specified user or specific definition. See: Roadway, Pedestrian Way, Traffic Lane, Bicycle Path, et. al.

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Chapter 17.04

DEFINITIONS

(Chapter replaced by Ordinance No. 185397,
effective July 6, 2012.)

Sections:

17.04.010 Definitions.

17.04.010 Definitions.

The following definitions apply to the entirety of Title 17. Additional section-specific definitions may be found in other sections.

- A. “Best Management Practices (BMPs)”** means operational, maintenance and other practices that prevent or reduce environmental, health or safety impacts. BMPs include structural controls, modification of facility processes, and operating and housekeeping pollution control practices.
- B. “Brownfield”** means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
- C. “Building Permit”** means a permit required under Chapter 24 or state administrative rule to erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or to do any clearing or grading, or cause any of the same to be done.
- D. “Chief Engineer”** means the engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the City Engineer. For the Bureau of Transportation this shall be the City Engineer, for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau.
- E. “City Engineer”** means the duly appointed City Engineer, or designee.
- F. “Department of Environmental Quality (DEQ)”** means the Oregon Department of Environmental Quality.

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- G.** **“Development”** means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities which create the need for additional usage or construction of public infrastructure.
- H.** **“Director of the Bureau of Environmental Services”** 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.
- I.** **“Director of the Bureau of Transportation”** 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.
- J.** **“Dwelling Unit”** means a building or a portion of a building consisting of one or more rooms which may include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.
- K.** **“Engineer’s Estimate”** means the calculation of anticipated total dollar cost of the construction of a public or local improvement project as determined by the Chief Engineer. The estimate is used in determining the face value of performance bonds where applicable.
- L.** **“EPA”** means the United States Environmental Protection Agency.
- M.** **“Frontage”** means the length of public right-of-way adjacent to a property, measured in feet.
- N.** **“Lateral”** means the underground pipe that connects the plumbing system of a building or buildings to a public or private sewer.
- O.** **“Local Improvement”** means an improvement of, on, over or under property that is or will be owned or controlled by the public, by construction, reconstruction, remodeling, repair or replacement, when the improvement is determined by the Council to confer a special benefit on certain properties, and such properties are to be charged through assessment all or a portion of the improvement cost.
- P.** **“Oregon Administrative Rules (OAR)”** means the State of Oregon Administrative Rules as amended.
- Q.** **“Owner”** means an owner-of-record of real property according to the appropriate county’s assessment and taxation records.

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- R.** “**Person**” means any 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.
- S.** “**Projected Future Curbline**” means:
1. The location of the curbline as designated on City plans for street construction;
 2. To the edge of existing pavement; or
 3. To the appropriate width of the designated street classification as described in the Design Standards for Public Streets.
- T.** “**Public Improvement**” means an improvement of, on, over or under property owned or controlled by the City, or property to be controlled by the City upon plat and easement recording for approved land divisions, by construction, reconstruction, remodeling, repair or replacement, when no property is intended to be charged through assessment any portion of the improvement cost.
- U.** “**Public Sewer**” means the entire City sewage, sludge, and stormwater collection, conveyance, treatment, pollution reduction, reuse, and disposal systems, including all pipes, ditches, sumps, and other system components that:
1. Have been designed for the collection and transport of stormwater, wastewater, or sanitary sewage received from street inlets, sewer service laterals and common private sewer systems; and
 2. Were
 - a. Constructed by the City’s Bureau of Environmental Services; or
 - b. Accepted by the City’s Bureau of Environmental Services under Section 17.32.055.
- V.** “**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 such service within the City, including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, cable or pipeline services.

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- W. “Public Works Project”** means any project performed or financed by a local, state, or federal government that results in the construction of a Local Improvement or a Public Improvement.
- X. “Responsible Official”** 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 17.04.036. For the Bureau of Environmental Services, this shall be the Director of the Bureau of Environmental Services as defined in Section 17.04.035.
- Y. “Street”** means any street as defined in the City Charter, including all area between property lines, and area dedicated to street use.

Chapter 17.06

**ADMINISTRATION OF PUBLIC
WORKS PERMITTING**

(Chapter added by Ordinance No. 183483,
effective February 19, 2010.)

Sections:

- 17.06.010 Purpose and Scope.
- 17.06.015 Protection of the Public Interest.
- 17.06.020 Definitions.
- 17.06.030 Organization and Rules.
- 17.06.040 Appeals Panel and Appeals Board.
- 17.06.050 Appeals.

17.06.010 Purpose and Scope.

This Title establishes regulations affecting or relating to Public Works Permit Improvements.

17.06.015 Protection of the Public Interest.

(Added by Ordinance No. 185397, effective July 6, 2012.) No provision of this Title shall be construed to create a right in any individual to a permit which in the opinion of the City would be inconsistent with the public interest.

17.06.020 Definitions.

For the purposes of this Chapter, the following definition shall apply:

- A. “Public Works Permit” is a permit issued by the Bureau of Transportation in accordance with Section 17.24.030, Application for Permit, or issued by the Bureau of Environmental Services in accordance with Chapter 17.32, Sewer Regulations.

17.06.030 Organization and Rules.

- A. The Public Works Permitting Section shall administer the provisions of this Chapter.
- B. The personnel of the Public Works Permitting Section shall consist of a Public Works Permit Engineering Manager and other employees as may be allowed and provided by City Council. Such personnel may act to enforce provisions of this

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Title. The Public Works Permit Engineering Manager shall report to the Development Division Managers of the Bureaus of Transportation, Environmental Services, and Water.

- C.** The Public Works Permitting Section shall reside in the Bureau of Transportation Budget. Each year the Bureaus of Transportation, Environmental Services, and Water shall negotiate and implement an Interagency Agreement to manage administration and operations of the Section.
 - 1.** The Public Works Permit Engineering Manager, under the direction of the three Development Division Managers for the Bureaus of Transportation, Environmental Services and Water, and in consultation with the City Engineer and Chief Engineers of the Bureaus of Environmental Services and Water, shall establish rules and procedures for appeals. The rules may include, consistent with this Code, a description of agency decisions that are and are not subject to appeal under this Code section.

17.06.040 Appeals Panel and Appeals Board.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Public Works Administrative Appeals Panel (PWAAP).
 - 1.** The PWAAP shall consist of five members. No quorum is required for deliberation or decision.
 - a.** The Panel shall include the three Development Division Managers or equivalent on the Bureaus of Transportation, Environmental Services, and Water or their designees.
 - b.** Mayor Appointed Members.
 - (1)** The Panel shall include one representative from the Development Review Advisory Committee (DRAC) and one from the City who has a strong interest or background in neighborhood land use and development activities. The Mayor may solicit nominations from the Chairs of the City's Neighborhood Association Land Use Committees or, if an association has no land use chair, the Neighborhood Chair.
 - (2)** The Mayor shall appoint a qualified member and an alternate for each member. The alternate shall attend meetings and vote when the member is unavailable. Appointed Panel members and alternates shall serve a term

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of two years. However at the creation of the PWAAP, the initial term one DRAC and a City at large member shall be for three years to stagger membership for continuity with appointed members. The Mayor shall appoint and may remove any member or alternate from the Panel at any time.

(3) Members of the Panel shall be public officials within the meaning of state and local laws pertaining to ethics.

(4) Appointed members of the PWAAP shall serve without compensation.

2. The PWAAP shall annually elect a Chairperson from among the three development division manager members of the Panel. Meetings of the PWAAP shall be held at the call of the Chairperson, who shall call meetings at the Public Works Permit Engineering Manager's request.

B. Public Works Board of Appeals (PWBA).

1. The Board shall consist of three members: Chief Engineers from the Bureaus of Environmental Services and Water, and the City Engineer or their designees. Two members shall constitute a quorum.

2. The Board annually shall elect a Chairperson from among the three members of the Board. Meetings of the Board shall be held at the call of the Chairperson, who shall call meetings at the Public Works Permit Engineering Manager's request.

C. Representation from the Bureaus of Fire, Parks and Recreation Forestry Division or Development Services may be called upon by the Public Works Permit Engineering Manager at any time to provide staff support related to appeals to be acted upon by the PWAAP or PWBA.

17.06.050 Appeals.

(Amended by Ordinance No. 184707, effective July 29, 2011.)

A. Unless prohibited by this Code and rules adopted by the Public Works Permit Manager, any person whose application for a Public Works Permit is denied or any person who is required pursuant to, or as a written condition of, the grant of a Public Works Permit to incur an expense for the alteration, repair, or construction of a facility in the public right of way, including but not limited to pavement, sidewalk areas, stormwater facilities or utilities may appeal to the Public Works Administrative Appeal Panel (PWAAP) by serving written notice upon the Public

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Works Permit Engineering Manager. The following actions are not subject to appeal:

1. Approval or denial of requests for design exceptions;
 2. Previously established City standards and specifications;
 3. Decisions related to the assessment of system development charges;
 4. Matters subject to the authority of any other City appeal body;
 5. Matters which may be appealed through City or state land use processes.
- B.** A permit decision, requirement or condition may only be appealed if it is in writing and only on the grounds that it is inconsistent with or contrary to City Code, rules, standards, policy, or is a misapplication or misinterpretation, thereof.
- C.** An appellant shall serve written notice of appeal on the Public Works Permit Engineering Manager challenging an appealable permit decision, requirement, or condition. The notice of appeal shall be in such form as specified by the Public Works Permit Engineering Manager, and shall be accompanied by a fee, which shall be set on an annual basis by City Ordinance, and served within the time for appeal specified in Subsection H. of this Section.
- D.** Content of the appeal. The appeal must be submitted on forms provided by the Public Works Permit Engineering Manager. All information requested on the form must be submitted. The appeal request must include:
1. The public works permit number appealed;
 2. The appellant's name, address, signature, phone number;
 3. The grounds for the appeal including, at a minimum, the specific City Code provision, rule, standard, or policy with which the decision, requirement, or condition is claimed to be in conflict and a detailed explanation of the alleged conflict;
 4. The relief requested; and
 5. The required fee.
- E.** The PWAAP may approve, approve with conditions or deny the requested relief. Any such decision must be consistent with applicable City Code, rules, standards

and policies. The decision of the PWAAP, including a statement of its basis, shall be transmitted to the appellant and the relevant Bureaus in writing.

- F.** The appellant may appeal the PWAAP decision to the Public Works Board of Appeals (PWBA) by serving written notice on the Public Works Permit Engineering Manager. Failure to do so shall constitute waiver of any objections to the decision. The allowable grounds for appeal to the PWBA are as stated in Subsection B. of this Section. The request for appeal to the PWBA must include all items as stated in Subsection D. of this Section, and must be made within the time for appeal specified in Subsection H. of this Section.
- G.** The PWBA may approve, approve with conditions or deny the requested relief. Any such decision made must be consistent with applicable City Code, rules, standards and policies. If the PWBA determines that the requested relief cannot be granted without a change to City policy the PWBA may recommend such a change in writing to the Directors of the Bureaus of Transportation, Water, Environmental Services and Development Services and may incorporate the Directors' response into its final decision. The PWBA shall transmit to the appellant and the relevant Bureaus a written decision on the appeal, including a statement of its basis.
- H.** Sequence of Appeals. The purpose of the appeals procedures is to identify and resolve appealable issues as early as possible, and to ensure an appeal is fully resolved before an applicant moves to subsequent steps in the permit review process. The following sequencing requirements apply to appeals:

 - 1.** Appellant may file an appeal during any phase of the permit application and review process. However, an appeal must be submitted during the phase in which the decision is made. For example, a decision made during the 30 percent phase of plan review must be appealed prior to the start of the 60 percent phase.
 - 2.** The time required to file and process an appeal shall not increase the amount of time allowed by the City for an applicant to file and process a public works permit application. The right to appeal shall expire when the permit expires.
- I.** Decisions of the PWBA are final. They may be reviewed by the Circuit Court pursuant to ORS 34.010 to 34.102.

Chapter 17.14

**FINANCING SYSTEMS
DEVELOPMENT CHARGES**

(Added by Ordinance No. 145785; amended
by 166334, effective Mar. 17, 1993.)

Sections:

- 17.14.010 Purpose.
- 17.14.020 Definitions.
- 17.14.030 Application, Consent to Assessment.
- 17.14.040 Terms and Conditions of Deferred Payment and Installment Payment Agreements.
- 17.14.050 Assessment.
- 17.14.060 Cancellation.

17.14.010 Purpose.

(Amended by Ordinance No. 183447, effective July 1, 2010.) The purpose of this Chapter is to authorize financing agreements that provide for payments deferrals and installment payments of City system development charges. This Chapter fulfills the mandate of Chapter 722 Oregon Laws of 1977 (ORS 223.207 and 223.208) by providing that the rights and duties accorded the City and property owners by the laws relating to assessments and financing of local improvement districts shall also apply to assessments and financing of those charges imposed by the City that are defined by Subsections 1 (a) and (b) of Section 2, Chapter 722 Oregon Laws of 1977 (ORS 223.208 (1) (a) and (b)).

17.14.020 Definitions.

(Amended by Ordinance No. 183447, effective July 1, 2010.) As used in this Chapter the following terms shall be defined as follows:

- A. “System development charge”** means a charge imposed pursuant to Chapters 17.13, 17.15, 17.36 and 21.16 of this Code.
- B. “Owner or property owner”** means all persons who appear on the County property tax record for the property subject to the system development charge.
- C. “Responsible Bureau”** means the City agency, office, organization, division or bureau which is responsible for calculating and maintaining records regarding system development charges.

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17.14.030 Application, Consent to Assessment.

(Amended by Ordinance No. 183447, effective July 1, 2010.) Any owner of real property subject to a systems development charge may apply to defer the payment of system development charges, or to pay the charge in installments in a manner similar to that provided for local improvement district assessments. As a condition to such application, the owner shall waive any right to challenge the validity or applicability of the charge and shall consent to the assessment of the property subject to the charge.

17.14.040 Terms and Conditions of Deferred Payment and Installment Payment Agreements.

(Amended by Ordinance Nos. 183447 and 185326, effective July 1, 2012.)

A. Deferred Payments.

1. The City shall authorize the deferred payment of system development charges for periods not to exceed 6 months for projects valued less than or equal to \$750,000, 9 months for projects valued greater than \$750,000 and less than or equal to \$7 million, and 12 months for projects that are valued greater than \$7 million.
2. For purposes of this Section, the City shall rely on the value assigned to projects by the City when calculating building permit fees.
3. The City shall charge simple interest during the deferral period at the interim interest rate established by ordinance pursuant to Chapter 17.12 of this Code.
4. The City shall collect fees and charges for the processing and administration of deferred payment agreements as set by general ordinance.
5. The City shall authorize the deferred payment of system development charges for periods not to exceed 18 months for new single family residential dwellings (detached, duplex, row house, townhouse) regardless of project value; this option shall include the requirements of Subsections 3. and 4. of this Section and shall be offered on projects for which complete building permit applications and SDC deferral applications in accordance with Section 17.14.030 are received between July 1, 2012 through June 30, 2014. Development for which a complete building permit application or a SDC deferral application under Section 17.14.030 are received after June 30, 2014 are not eligible for the deferral provided by this Subsection.

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- B.** Installment Payment Agreements.
Payment of principal and interest shall be made in installments as set forth in the signed installment payment contract.

17.14.050 Assessment.

The City Auditor shall report to the Council from time to time the contracts to pay system development charges pursuant to this Chapter. If the Council finds that the contracts are in order and that subject property has been permitted to connect to City facilities and has thereby benefited, it shall approve the contracts by ordinance direct the billing for the charges upon the land benefited plus a financing fee. The financing fee shall be calculated as set forth in PCC 17.12 Assessments. All such assessments may be combined in one assessment roll and shall be entered upon the Docket of City Liens and collected in the same manner as other local improvement assessments.

17.14.060 Cancellation.

(Amended by Ordinance No. 183447, effective July 1, 2010.)

- A.** Upon written request of the responsible City bureau, the City Auditor is authorized to cancel assessments of system development charges, without further Council action, where the property is not physically connected to the public improvement of where the new development approved by the building permit is not constructed and the building permit is cancelled. The City Auditor shall establish administrative guidelines and fees or charges relating to the cancellation of assessments. The City Auditor shall maintain on file for public inspection a current copy administrative guidelines and fees or charges.
- B.** For property which has been subject to a cancellation of assessment of system development charges, a new installment payment contract shall be subject to the code provisions applicable to system development charges and installment payment contracts on file on the date the new contract is received by the City.

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Liability of the owner of the facility for such change shall be conditioned upon notice in writing given by the contractor at least 10 days preceding the improvement work in the area. In case any such owner fails or refuses to make the change or relocation, then upon direction by the City Engineer the contractor on the improvement may perform such change or relocation, and upon approval of the contractor's bill therefor by the City Engineer, if the owner of the facility is the owner of land to be assessed for the local improvement, then the City shall add the amount of the bill for the work to the local improvement assessment to be assessed upon the property. If the contractor has performed such work of change or relocation of facility, and the owner thereof is not chargeable by assessment of benefit from the improvement, then the contractor shall look solely to the owner of such facility for reimbursement of the cost of change or relocation. In case of a public improvement constructed at the expense of City funds, City funds shall be chargeable for the cost of moving any City owned facilities.

- C.** The contractor for a public improvement or local improvement shall not interfere with or impede any person engaged in changing or relocating the facility within a street area, as required in this Section.
- D.** The right is reserved to the City and to owners of public utilities in the street area to enter upon such street area for repairs, changes or installation of additional facilities in the street area of the improvement work.

17.16.110 Facilities in Street Area Damaged by Contractor.

(Amended by Ordinance Nos. 131165, 173295 and 183397, effective January 8, 2010.)

- A.** If in the course of a local or public improvement the contractor or his or her subcontractor damages or displaces a public improvement, such as a curb, sidewalk, water line or meter, manhole, drainage improvement or other installation, then the contractor shall repair or replace the public improvement at the contractor's own expense in a proper manner as approved by the City Engineer; except in the case of:
 - 1.** Damage to a sewer or drainage improvement shall be repaired in a proper manner as approved by the Chief Engineer of the Bureau of Environmental Services. Contractors may be granted the option of funding the City to make the repairs in their stead; and
 - 2.** Damage to a water line or meter shall be repaired by the Bureau of Water Works and billed to the contractor or others, in the manner specified in Title 5, Revenue and Finance, of this Code.
- B.** If, in the course of the work of a local improvement or public improvement, a contractor damages any underground facility owned by an adjacent property

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owner which is not located within 2 feet of the street grade established for that location, the contractor shall be liable for the cost of repair or replacement of the facility unless the plans, specifications and contract otherwise specifically prescribe. The repair or replacement shall be done by the owner of such facility at the expense of the contractor unless the owner directs the contractor to perform such work.

- C. If, in the course of the work of a local improvement or public improvement, a contractor damages any underground facility owned by an adjacent property owner which is located within 2 feet of the established street grade in the area, then such facility shall be repaired, replaced or relocated as directed by the Responsible Bureau, subject to approval by the City Engineer, at the expense of the owner thereof, notwithstanding any failure to notify the owner of the need for relocation or change as prescribed in Section 17.16.100, unless the plans, specifications and contract otherwise prescribe.

17.16.120 Engineer's Standards.

(Amended by Ordinance No. 173295, effective April 28, 1999.) The City Engineer may establish standards for particular types or classes of work to be performed by contractors or by persons permitted to construct facilities in streets, easements or other public property. Any person constructing the facility shall comply with such standards unless otherwise specifically authorized by the City Engineer to deviate from those standards.

17.16.130 Approvals by City Attorney.

All contracts, bonds, insurance policies and all forms to be used by the public pursuant to this Title shall first be approved as to form by the City Attorney before filing or use.

17.16.140 Acceptance and Release of Property Interests

(Added by Ordinance No. 185398, effective July 6, 2012.)

- A. Acceptance by the Bureau of Transportation: The Director of the Bureau of Transportation may approve, accept, and amend a right-of-way dedication, easement, or other real property interest for public improvements to the transportation system of the City when the consideration provided therefore does not exceed \$50,000.
- B. Acceptance by the Bureau of Environmental Services: The Director of the Bureau of Environmental Services may approve, accept, and amend a sewer easement or other real property interest for public improvements to the public sewer of the City when the consideration provided therefore does not exceed \$50,000.
- C. Release by the Bureau of Transportation: The Director of the Bureau of Transportation may release easements and associated infrastructure no longer

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needed for the transportation system of the City. This authorization does not extend to the vacation of public rights-of-way, which must comply with City Charter Section 1-104 and Oregon Revised Statutes Chapter 271.

- D.** Release by the Bureau of Environmental Services: The Director of the Bureau of Environmental Services may release easements and associated infrastructure no longer needed for the public sewer of the City.
- E.** Rental or Leasing of Real Property or Public Right-of-Way by the Bureau of Transportation: The Director of the Bureau of Transportation may rent or lease real property or public right-of-way assigned to the Bureau of Transportation which will not be needed for public use during the term of the rental or lease for any term permitted by statute.
- F.** Designation of City Property as Right-of-Way by the Bureau of Transportation: The Director of the Bureau of Transportation, upon approval by other affected Bureaus, may designate City-owned property as public right-of-way for public improvements to the transportation system of the City.

Chapter 17.23

**SPECIAL TRAFFIC CONTROL
DISTRICT**

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Section:

- 17.23.010 Application.
- 17.23.020 Definitions.
- 17.23.030 Designated Boundary.
- 17.23.040 Special Jurisdiction.
- 17.23.050 Permits Required.
- 17.23.060 Traffic Standards.
- 17.23.070 Revocation.

17.23.010 Application.

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

17.23.020 Definitions.

(Amended by Ordinance No. 185397, effective July 6, 2012.) 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 or sidewalk.
- 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

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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 Chapters 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 a.m. to 9 a.m. and 4 p.m. to 6 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

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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 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

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comply with the conditions of the permit, or for any reason which would have been grounds for denial of the initial permit application.

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.

(Amended by Ordinance No. 185397, effective July 6, 2012.) 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. When there are two or more curbs on the same side of the street centerline, 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 closest to the street centerline measuring toward the center of the street and at least 2 feet from the curb closest to the street centerline 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

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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.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- 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 current DEQ definition of clean fill in OAR 340-093; and
 4. The concentrations of any contaminants of concern in the fill material are below the DEQ soil and sediment clean fill screening levels for terrestrial and upland use.

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- B.** “Right-of-way access area” means:
- 1.** The area within a public right-of-way to a minimum depth of five feet below the final street and sidewalk grade and;
 - 2.** Any additional depth or width necessary for maintenance of public or private infrastructure including but not limited to sewers, hydrants, meters, conduits and pole bases as required by the Director of the Bureau of Transportation.
- 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 as specified in the City’s standard construction specifications or as approved by the Director of the Bureau of Transportation with the concurrence of the Director of the Bureau of Environmental Services.
- 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.** Except as provided in Subsection 17.24.067 H., all fill placed in the right-of-way access area as part of a project permitted under this Chapter shall be utility corridor fill.
- F.** Permittees shall excavate soil or fill that does not meet the definition of utility corridor fill that is 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 the Bureau of Environmental Services

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Spill Prevention and Citizen Response Section within 24 hours of such a spill unless otherwise required by 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 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, Subsections 17.24.070 A.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

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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.

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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

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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

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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.

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- B.** A drawing showing the width of the applicant's cafe or restaurant facing the sidewalk indicating the area requested to be used, location of doorways, and the width of sidewalk (distance from curb to building face), location of tree wells, parking meters, bus shelters, sidewalk benches, trash receptacles, driveway (curb cut), or any other semi-permanent sidewalk obstruction.
- C.** A color rendition in perspective for review by the Bureau of Development Services shall be furnished upon request by the City Engineer.
- D.** A letter signed by the property owner, consenting to a sidewalk cafe adjacent to the property on which the restaurant is located.
- E.** A signed agreement between the Responsible Party and the City stating the Responsible Party understands all terms and conditions of the permit.

17.25.050 Permit Requirements.

No person shall operate any restaurant or cafe, to provide food or alcoholic liquor, on any public street or sidewalk unless such person has obtained a valid permit, to operate that business in such a manner, pursuant to this Chapter.

17.25.060 Location Rules and Review.

(Amended by Ordinance Nos. 182870 and 185397, effective July 6, 2012.)

- A.** A sidewalk café shall only be allowed where the sidewalk is at least 8 feet wide. Café operations will be allowed only within the Area of Operation, which shall be established by the City Engineer.
The following table shows the minimum width of the Clear Pedestrian Zone for a given sidewalk width.

Sidewalk Width	Clear Pedestrian Zone Minimum Width
Greater than or equal to 8' 0" and less than or equal to 10' 0"	5' 6"
Greater than 10' 0" and less than 15' 0"	6' 0"
Greater than or equal to 15' 0"	8' 0"

- B.** Sidewalk width is determined by City records. Adjustments may be made at the discretion of the City Engineer when field measurements conflict with City records.
- C.** As a tool to allow compliance in areas with space conflicts a sidewalk café may be allowed pinch points that are less than the required Clear Pedestrian Zone

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minimum width. At a pinch point, the Clear Pedestrian Zone minimum width may be reduced by 6 inches for a length of no more than 2 feet. Pinch points must be at least 4 feet from adjacent pinch points. Pinch points are to be used at the discretion of the City Engineer.

- D.** The Clear Pedestrian Zone shall be free of all obstructions, permanent and temporary. This includes objects such as posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, vegetation, trees, tree-wells, planters, literature and news racks, parking meters, bus shelters, benches, tables, chairs, umbrellas, heaters, and waste receptacles.
- E.** Obstructions controlled by the café or property owner that extend into the Clear Pedestrian Zone shall be at least 7 feet above the sidewalk surface within the Clear Pedestrian Zone.
- F.** Curbside seating may be allowed, subject to approval, and must allow a 2 foot buffer from the curb closest to the property line. Loading zones, bus stops, adjacent travel lanes or other conditions may prohibit curbside seating. The 2 foot buffer may be waived at the Bureau of Transportation's discretion when seating is adjacent to bike corrals or no-parking zones.
- G.** Within the Clear Pedestrian Zone there shall also be a continuous, straight passage at least 2 feet in width, known as the clear visual zone, to provide pedestrians with a clear visual indication of the direction and location of the Clear Pedestrian Zone. The Clear Pedestrian Zone is allowed to meander to navigate obstructions, but its ability to do so is limited by the clear visual zone.
- H.** To ensure compliance with the Americans with Disabilities Act, there shall be a continuous passage at least 4 feet in width with a maximum 2 percent pavement cross slope within the Clear Pedestrian Zone.
- I.** The approved Area of Operation shall be established by the City Engineer.
- J.** Within the Transit Mall, additional criteria regarding Clear Pedestrian Zone minimum widths may be applied per the City Engineer's discretion.

17.25.070 Liability and Insurance.

(Replaced by Ordinance No. 182870, effective June 3, 2009.) A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees, and shall indemnify the City of Portland, its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability and property damages insurance as will protect permittee and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the

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- C. All required permits are current;
- D. The cart size is in conformance with Section 17.26.130 E. If the City Engineer finds that the application meets all the above requirements, he shall issue a new permit.

17.26.130 Restrictions.

(Amended by Ordinance Nos. 182760 and 185397, effective July 6, 2012.)

- A. Any person conducting business on the sidewalks of the City of Portland with a valid permit issued under this Chapter may transport and/or display approved items or services upon any vending cart, under or subject to the following conditions:
 - 1. The operating area shall not exceed 24 square feet of sidewalk which shall include the area of the vending cart, and, when externally located, the operator and trash receptacle.
 - 2. The length of the vending cart shall not exceed 6 feet.
 - 3. The height of the vending cart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
- B. No person may conduct business on a sidewalk in any of the following places:
 - 1. Within 10 feet of the intersection of the sidewalk with any other sidewalk except that the City Engineer may waive this restriction in writing for any location upon finding that construction of extra-width sidewalks makes such use consistent with the standards established by Section 17.26.070.
 - 2. Within 8 feet of the adjacent property line;
 - 3. Within 10 feet of the extension of any building entrance or doorway, to the curb closest to the property line.
 - 4. Within 10 feet of any handicapped parking space, or access ramp.
- C. All persons conducting business on a sidewalk must display in a prominent and visible manner the permit issued by the City Engineer under the provisions of this Chapter and conspicuously post the price of all items sold.
- D. All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting

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business. Each person conducting business on a public sidewalk under the provisions of this Chapter shall carry a suitable container for placement of such litter by customers or other persons.

- E.** All person conducting business on a sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or remove his vending cart entirely from the sidewalk if necessary to avoid such congestion or obstruction.
- F.** No person shall conduct business as defined herein at a location other than that designated on his permit.
- G.** No permittee shall make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his wares.
- H.** No permitted vending cart shall be left unattended on a sidewalk nor remain on the sidewalk between midnight and 6 a.m.
- I.** No permittee shall conduct business in violation of the provisions of any ordinance providing for a special event.

17.26.140 Special Event Designation.

(Amended by Ordinance No. 182760, effective June 5, 2009.) The special event designation allows vendors to conduct business on City sidewalks at the Rose Festival parades and other major special events that the City Engineer shall so designate, subject to the following conditions:

- A.** Application shall be made to the City Engineer on a form deemed appropriate by the City Engineer. Each application shall apply to only one event or parade. Application is open to any vendor who possesses a valid sidewalk vending permit. Each application shall be accompanied by:
 - 1.** All necessary permit fees.
 - 2.** The proposed location for conducting business along with the temporary written consent of the property owners adjacent to the permit operating area. This temporary consent must be on a form deemed appropriate by the City Engineer. No application will be accepted for a permit operating area within which a permit has been issued or an application is pending.
- B.** Application must be made at least 5 working days prior to an event to qualify for participation.

Chapter 17.28

SIDEWALKS, CURBS AND DRIVEWAYS

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

Sections:

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

17.28.010 Sidewalk Defined.

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

17.28.011 Planting and Parking Strip Defined.

(Added by Ordinance No. 184957; amended by Ordinance No. 185397, effective July 6, 2012.) “Planting Strip” and “Parking 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

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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 or parking strip. Grates or other coverings of said areas shall not be considered as surfacing intended for the use of pedestrians.

17.28.015 Owner Defined.

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

17.28.020 Responsibility for Sidewalks and Curbs.

(Amended by Ordinance Nos. 182760, 183397 and 184957, effective November 25, 2011.)

- A.** The owner(s) of land abutting any street in the City shall be responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveways and parking strips abutting or immediately adjacent to said land, except as provided in Subsections B. and C. Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway or parking strip adjacent to said land, or by reason of the property owner’s failure to keep such sidewalk, curb, driveway or parking strip in safe condition and good repair. Said property owner(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgment or settlement, and for all reasonable costs of defense, including investigation costs and Attorney fees, by reason of said property owners’ failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain, construct, and repair such sidewalks, curbs, driveways and/or parking strips.
- B.** Curbs shall be maintained by the City, except when in combination with the sidewalk and when they have been willfully damaged or damaged by tree roots. Intersection corners and curbs adjacent thereto may be installed by the City when sidewalks and curbs are constructed up to the intersection on the same side of the street.
- C.** Green street or other public stormwater management facilities located within the right of way shall be modified or repaired only by the City or under an appropriate permit from the Bureau of Environmental Services.
- 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 shall provide copies of the

specification to any person upon request, and make the specifications available for public inspection during normal office hours.

17.28.025 Property Owner Responsible for Snow and Ice on Sidewalks.

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

- A.** The owner(s) and/or occupant(s) of land adjacent to any street in the City shall be responsible for snow and ice removal from sidewalks abutting or immediately adjacent to such land, notwithstanding any time limitations.
- B.** Property owner(s) and/or occupant(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from failure to remove snow and/or ice accumulations.
- C.** Property owner(s) and/or occupant(s) shall be liable to the City of Portland for any amounts paid or incurred consequent from claims, judgment or settlement, and for all reasonable investigation costs and attorney fees, resulting from the responsible property owner's or occupant's failure to remove snow and ice accumulations from such sidewalks as imposed by this Code.

17.28.030 Notice for Construction of Sidewalks and Curbs.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.)
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, 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. 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.

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17.28.035 Curb and Intersection Corner Ramps.

(Amended by Ordinance No. 184957, effective November 25, 2011.)

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

17.28.040 Construction Alternatives.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) 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 a permit therefore, which permit shall prescribe the kind of sidewalk or curb, or both, to be constructed, the material to be used and the width thereof. After notice to construct sidewalk or curb, or both, has been posted, the owner, agent or occupant shall construct the same within 30 days from the date of posting, or within said time shall show cause, if any there be, by a written remonstrance addressed to the City Council stating why the same should not be constructed. The Council will grant a hearing to the remonstrator at a regular meeting as soon thereafter as the same can be filed on regular Council Calendar. The Council will thereupon determine whether or not such sidewalk or curb, or both, shall be constructed. If the remonstrator is not present at the time of such determination by the Council, the City Auditor shall forthwith notify such person of such determination of the Council by mail sent to the address given upon the written remonstrance. Failure of the City Auditor to send the notice, or failure of the remonstrator to receive the same, or any other mistake therein, shall not render void or ineffective the lien to be imposed upon the property in the event of City construction. In the event that the Council determines that the sidewalk or curb, or both, shall be constructed, the owner or designated agent or the occupant shall within 10 days thereafter begin the construction thereof and diligently prosecute the same to final completion.

17.28.050 City Construction if Owner Fails to Construct.

(Amended by Ordinance No. 182760, effective June 5, 2009.) If no petition for local improvement is filed, and if the owner, agent or occupant of property posted with notice construct sidewalk or curb, or both, shall fail, neglect or refuse to begin the construction of the sidewalk or curb within 30 days after posting of notice, or within 10 days after

Chapter 17.32

**PUBLIC SEWER SYSTEM AND DRAINAGE
IMPROVEMENT PERMITS**

(Chapter replaced by Ordinance No. 183397,
effective January 8, 2010.)

Sections:

17.32.005	Purpose.
17.32.006	Definitions.
17.32.010	Permit Required.
17.32.015	Permit Fees.
17.32.020	Application for Connection Work Permit.
17.32.021	Connection from Properties Outside the City Limits.
17.32.022	Public Rights of Way for Public Sewer and Drainage Improvements.
17.32.050	Issuance of a Connection Work Permit.
17.32.055	Maintenance of Sewer Systems.
17.32.060	Failure to Restore and Maintain Street Area .
17.32.075	Enforcement.
17.32.080	Separation of Storm and Sanitary Sewer Lines on Private Property.
17.32.090	Connections to Public Sanitary and Storm Sewers.
17.32.095	Sewer Extension Assessments and Reimbursement.
17.32.100	Reimbursement for Installation of Sewer Backflow Devices in Existing Buildings on Combination Sewer Lines .
17.32.110	Application for Permit to Construct a Public Sewer or Drainage Improvement.
17.32.120	Deposit Required.
17.32.130	Refusal of Public Sewer or Drainage Improvement Permit.
17.32.140	Contents of Permit.
17.32.170	Work Done Under Permit.
17.32.180	Original Documents Become the Property of the City.
17.32.190	Acceptance of Completed Improvement by the Chief Engineer of the Bureau of Environmental Services.
17.32.200	Permit-Related Records.
17.32.210	Removal of Public Sewer or Drainage Improvement.

17.32.005 Purpose.

This Chapter protects the public sewer system by requiring permits to construct, modify or remove elements of the system. In addition, this Chapter promotes safe drainage conveyance by requiring approval of planned modifications to drainage.

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17.32.006 Definitions.

(Amended by Ordinance No. 185397, effective July 6, 2012.) As used in this Chapter, the following definitions apply:

- A. **“Building Sewer”** means the private property portion of the horizontal piping system that receives the discharge of building drains and extends to a public sewer, private sewer, private sewage disposal system, or other approved discharge point.
- B. **“Combined Sewer”** means a sewer designed to convey both sanitary sewage and stormwater.
- C. **“Commercial or Industrial Occupancy”** means any structure or facility wherein preparation, processing, treating, making, compounding, assembling, mixing, improving, or storing any product or any solid, liquid or gaseous material for commercial or industrial purposes occurs, or wherein cleaning, processing or treating of tanks, vats, drums, cylinders or any other container used in transportation or storage of any solid, liquid or gaseous material for commercial or industrial purpose occurs;
- D. **“Common Private Sewer System (also called Party Sewer)”** means that portion of a building sewer that:
 - 1. Is not owned by the City of Portland
 - 2. Is used for draining more than one building under different ownership; and
 - 3. Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.
- E. **“Connection”** means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.
- F. **“Director”** means the Director of the Bureau of Environmental Services or the Director’s designee.
- G. **“Discharge Point.”** means the connection point or destination for a discharge leaving a site.
- H. **“Drainage”** means the flow of waters across public and private properties.

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- I. “Drainage Improvements”** means management facilities or modifications to drainage patterns to address safety issues, increase capacity, or improve water flows.
- J. “Public Right of Way”** means the area within the confines of a dedicated public street, an easement owned by the City, or other area dedicated for public use for streets or public utility facilities.
- K. “Public Sewer Easement”** is a grant of the right by a property owner to the City to use land for placement and maintenance of public sewer facilities.

17.32.007 Administrative Rules and Procedures.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.32.010 Permit Required.

- A.** It is unlawful for any person to take the following actions without first obtaining the appropriate permit and paying the fees as prescribed in Chapters 17.24 and 17.32:
 - 1.** Dig up, break into, excavate, disturb, dig under, or undermine any public street or public sewer easement for the purpose of laying or working upon any sewer, pipe, culvert, or sewer or drain appurtenance or improvement of any kind;
 - 2.** Make connection with, obstruct or interfere with the sewer system or existing drainage;
 - 3.** Cut or break into the public sewer system;
 - 4.** Connect the blowoff or exhaust pipe of any boiler, steam engine or other pressurized facility with the public sewer system; or
 - 5.** Direct water, from any source, on private property to run onto any public sidewalk, street or right of way.
- B.** In the case of leakage or breakage in any sewer pipe, drain or conduit requiring emergency action, any otherwise authorized person may commence repairs on the same without first obtaining a permit provided that:
 - 1.** The authorized person immediately notifies the Chief Engineer and the City Engineer; and

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2. The authorized person files an application for a permit with the Chief Engineer, complies with any permit conditions thereon, and pays the fees required in Chapters 17.24 and 17.32; and
 3. The work is performed in compliance with the City Engineer's requirements for traffic control and protection of the public.
- C. Repair of nonconforming sewers located in public right of way is prohibited unless the Chief Engineer determines that it is in the public interest to allow the nonconforming system to operate.
- D. The Bureau of Transportation, without permit but with the approval of the Chief Engineer, may construct and attach to the public sewer system stormwater inlets, leads, and other such facilities as are needed to provide stormwater drainage for public streets.
- E. The Chief Engineer will establish a permitting program by Administrative Rule which shall include requirements for application submittal, permit issuance, inspection, warranty, insurance and bond requirements shall be described in Administrative Rules.

17.32.015 Permit Fees.

(Amended by Ordinance No. 183965, effective July 30, 2010.)

- A. Sewer Connection Permits. Sewer permit fees shall recover the cost of all City reviews including all applicable overhead charges. Overhead rates shall be computed annually by the Director and kept on file with the City Auditor. If a larger fee is required elsewhere in this Title for any class of permit, the larger fee shall apply; otherwise, the fees established by general ordinance shall be paid for permits unless the Council, by Ordinance or Resolution, has granted a specific permit for a different fee.
- B. Public Sewer or Drainage Improvement Permits. The City shall recover the true costs of engineering and superintendence services in connection with public sewer or drainage improvement projects based on City records of time, materials, services, overhead and indirect costs incurred to provide the services. The Bureau shall recover the costs of engineering and superintendence for all public sewer or drainage improvements, whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.
- C. All fees shall be paid prior to receiving a permit and commencing work.

17.32.020 Application for Connection Work Permit.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Any person who desires a connection work permit as required by Section 17.32.010 shall apply in writing to the Director and pay the permit fee prescribed in Section 17.32.015. The application shall include the name of the street in which work is to be done, or if not working in a named street, a description of the proposed or existing easement or right of way, the purpose of the work, the location and potentially affected components of the public sewer system, the location of any affected drainage, and the location of the building or lot, if any, to be connected by the work.
- 1.** If the application is for a permit to connect any occupancy other than a commercial or industrial occupancy with any component of the public sewer system or drainage improvement, it shall specify the location and the area to be drained, together with such other information as the Chief Engineer may require.
 - 2.** If the application is for a permit to connect a commercial or industrial occupancy with any component of the public sewer system or drainage improvement, it shall contain a description of the business, a plat of the property, plans and specifications for any special installations, a description and time schedule of the character and quantity of waters and wastes to be discharged through the connection, and any further information required by the Chief Engineer. No permit shall be issued for connection from a commercial or industrial occupancy until the Chief Engineer approves the application and determines that the connection as described in the application will comply with the provisions of this Title.
- B.** The Chief Engineer may refuse issuance of connection permits to any person until the requirements of permits previously issued are complied with. This authority shall include, but not be 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.

17.32.021 Connection from Properties Outside the City Limits.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Connection with the public sewer system or a drainage improvement from properties outside the City limits shall be allowed at the sole discretion of the City, and at the location and on such conditions as the Chief Engineer shall find appropriate for proper functioning and maintenance of City sewer service. No connection from property outside the City limits shall be permitted which, in the

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opinion of the Chief Engineer, may overload or otherwise compromise any component of the public sewer system or any drainage improvement, or which shall require any capital investment or expenditure by the City. Connection of properties outside the City's boundaries is subject to the requirements and limitations of the City's adopted urban services policy.

- B.** Any person desiring to connect a property outside the City limits to the public sewer system or any drainage improvement under the provisions of this Title shall enter into such agreement as may be required by the Director.
- C.** Application for a permit to connect shall be made in writing by the owner or other person having a recorded equitable interest in the property for which the connection is desired. Before a permit can be issued, all fees and special charges as required in Chapter 17.36 shall be paid and any permits that may be required by road authorities for street or highway opening and use shall be obtained.

17.32.022 Public Rights of Way for Public Sewer and Drainage Improvements.

All components of the public sewer and drainage system shall be located within public rights of way, including easements. The width of public rights of way shall be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods. The minimum width for public easements shall be 15 feet. The Director may require enlargement of the easement as is reasonably necessary considering topographic conditions, the design of a improvement or other relevant factors.

17.32.050 Issuance of a Connection Work Permit.

Upon receipt of the completed application, proper and satisfactory bond, and payment of any applicable fees, the Chief Engineer may issue the requested permit, unless there are reasons of public interest to the contrary. The permit may include restrictions or conditions as deemed necessary by the Chief Engineer.

17.32.055 Maintenance of Sewer and Drainage Systems.

(Amended by Ordinance No. 185397, effective July 6, 2012.) Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:

- A.** Private Systems. Sewer or drainage systems that were not constructed by the City, were not built under a public works permit, or are not otherwise accepted pursuant to Subsection B.1 shall be maintained by the parties served by the system, regardless of whether they are within a public right of way.
 - 1.** If any portion of an existing sewer or drainage system extends into a public right of way, the property owner shall obtain a permit pursuant to Chapter 17.24 before beginning work within the right of way.

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2. The Chief Engineer may deny a permit, or establish permit conditions, where it is in the public interest to retain the system, for repair sewer or drainage systems located in the public right of way that are private or have unclear ownership.
 3. Incidental, inadvertent, or emergency City maintenance of private sewer or drainage systems or systems with unclear ownership does not obligate the City to perform future maintenance, imply acceptance of the system, or confer ownership of the system on the City.
- B. Public Systems.** Sewer or drainage systems constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsection B.1. shall be maintained by the City, unless otherwise specified by written agreement with the City. Public sewer and drainage systems shall be located in public rights-of-way.
1. **Acceptance of Systems with Unclear Ownership.** The Chief Engineer may agree to conduct future maintenance for certain sewer and drainage systems where ownership is unclear and there is a public benefit of having the City perform future maintenance activities if:
 - a. The sewer system conveys only domestic sewage flows;
 - b. The system has been specifically modified through City permit or by the City to intentionally accept flows from City rights of way or other City held property; or
 - c. The system and the properties currently connected to the system are participating in the City's Nonconforming Sewer Conversion Program pursuant to Chapter 17.33.
 2. Systems meeting an acceptance criterion in Subsection B.1 are added to the City maintenance roles as of the date of signing of an acceptance acknowledgment by the Chief Engineer. The Chief Engineer may decline to accept the system for City maintenance unless the owners of all properties served by the system consent in writing to City assumption of responsibilities.
 3. Acceptance of future maintenance responsibilities does not include or imply acceptance by the City of any maintenance responsibility, cost, liability or damage that arises from conditions or use of the system before acceptance by the City.

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4. The Chief Engineer may refuse acceptance of future maintenance responsibilities for any system that does not have adequate records demonstrating that it was constructed by the City or accepted by the City after construction under a public works permit.
5. The City's responsibility for maintenance of any sewer or drainage system, branch or connection point is subject to the City's annual budget appropriation and shall be limited to the level of service dictated by the City Council's discretionary budget decision. The City assumes no responsibility for activities requiring a level of maintenance in excess of the level for which funds have been appropriated.

C. Nuisance Abatement.

1. The Chief Engineer may determine that a private sewer and drainage system or a system with unclear ownership records that is located in a public right of way constitutes a public nuisance if it:
 - a. Is located in a manner that impairs or threatens to impair the operation, maintenance or installation of any street or public utility;
 - b. Is so deteriorated that flows from the system infiltrate or threaten to infiltrate into any public utility or impact or threaten to impact the support structures of any street or public utilities; or
 - c. Otherwise creates a public health and safety hazard.
2. Summary abatement of the nuisance is authorized when the Chief Engineer determines it is necessary to take immediate action to meet the purposes of this Title.
3. Notice to the responsible party before summary abatement is not required. Following summary abatement, the Chief Engineer shall notify all owners identified in this Chapter or Portland City Code Chapter 25.08 as having maintenance or repair responsibilities. An error in the name of the property owner or address listed in the county assessment and taxation records shall not render the notice void, but in such case the posted notice shall be deemed sufficient.
4. Whenever a nuisance is abated under this section, the Chief Engineer shall keep an accurate account of all expenses incurred and shall bill the properties that the City determined has caused or contributed to the nuisance to recover the costs of abatement. Civil penalties of up to \$500

may be levied for failure to abate the nuisance. If the amount due is not paid in full within 30 days of the date of notice, the City shall proceed with procedures to place a lien against the properties.

See Figure 13 for an example visual representation of ownership situations.

17.32.060 Failure to Restore and Maintain Street Area.

It is unlawful for any owner or resident who obtains a sewer construction or connection work permit and is exempt from furnishing the bond required by this Chapter, to fail or refuse to immediately remove all surplus sand, earth, rubbish, and other material and immediately replace in a condition satisfactory to the City Engineer the portion of the street disturbed, dug up or undermined, or to fail or refuse to keep that portion of the street in good repair at the permittee's own expense for the period of two years from the date of the completion of the work.

17.32.075 Enforcement.

- A.** Enforcement. Persons who fail to comply with the provisions of this chapter and the BES Public Works Enforcement Rules adopted hereunder are subject to enforcement actions by the Director.
- B.** Site Inspection. City representatives may inspect public facilities and their associated private connections to determine compliance with this Chapter.
- C.** Conditions for entry. Authorized City representative shall present appropriate credentials at the time of entry and request permission to enter. If permission cannot be obtained the City official may obtain an administrative search warrant to gain entry. To the extent practicable, entry shall be made at reasonable times during normal operating or business hours.
- D.** Violations. A violation shall have occurred when:
 - 1.** Any requirement of this Chapter or administrative rules adopted hereunder has not been met;
 - 2.** There has been lack of compliance with a written directive or timeline of the Director made under authority of this Chapter;
 - 3.** Any condition of a permit issued under the authority of this Chapter or administrative rules is not met within a specified time; or
 - 4.** A public sewer or drainage improvement has been damaged or modified without authorization.

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- E.** Remedies and Enforcement Mechanisms. In enforcing any of the requirements of this Chapter or administrative rules, the Director, or a duly authorized representative, may:
- 1.** Issue a notice of violation and compliance order to the applicable property owner. A compliance order may include but is not limited to requirements to:
 - a.** repair modified or damaged improvements;
 - b.** obtain a permit for required repair activities;
 - c.** immediately abate threats to the environment or public health and safety;
 - d.** compensate City crews for expenditures already incurred in abating abate threats to the environment or public health and safety.
 - 2.** Summarily abate nuisances that constitute an imminent environmental or public health and safety threat. Efforts will be made to offer the owner opportunities to abate these imminent danger situations when practicable however, the City may immediately abate nuisances when deemed necessary;
 - 3.** Institute an action before the Code Hearings Officer either to compel repair of impacted systems or to impose a lien for costs incurred by the City to abate a nuisance;
 - 4.** Institute an action in a court of competent jurisdiction; or
 - 5.** Take such other action as the Director, in the exercise of his or her discretion, deems appropriate.
- F.** Civil Penalties. Violations of this Chapter or administrative rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.
- Civil penalties collected under this chapter shall be deposited with the City Treasurer and credited to the Sewage Disposal Fund. Penalties and costs are payable upon receipt of the final order imposing penalties and costs. Penalties and costs under this chapter are a debt owing to the City and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full. The City may initiate

appropriate legal action in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the Code Hearings Officer.

G. Appeal of an Enforcement Action. Upon receipt of a final determination of an enforcement action, a person may appeal the determination to the Code Hearings Officer in accordance with the procedures set out in Chapter 22.10 of the Portland City Code.

1. The following decisions are appealable to the Code Hearings Officer:

- a.** The final determination of violation.
- b.** The amount of civil penalty.
- c.** The required remediation action.
- d.** The timeframe for corrective action.
- e.** Termination of service or permit.

2. The following decisions are not appealable to the Code Hearings Officer:

- a.** Refusal to accept an improvement into the public maintenance system.
- b.** Refusal to grant permits for modification of a public improvement.
- c.** Specification of the required route of service to connect with a public improvement.

H. Cost Recovery. The Director may recover:

- 1.** All reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter, including but not limited to the costs of administration, investigation, sampling and monitoring, legal or enforcement activities, damage to or contamination of the sanitary, combined, and separate storm sewer systems as well as all other public drainage improvements that convey, manage or dispose of stormwater flows.
- 2.** All costs associated with fines and civil penalties assessed, damage and summary abatement charges, or any other obligation instituted against the City as a result of activities not in compliance with this Chapter or associated administrative rules.

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Liens may be imposed on the property or properties subject to cost recovery in accordance with the provisions of Chapter 22.06.

17.32.080 Separation of Storm and Sanitary Sewer Lines on Private Property.

(Amended by Ordinance No. 185397, effective July 6, 2012.) Sanitary sewage from private property shall be separately conveyed to the property line and connected through individual laterals for discharge into a public sewer. Drainage from private property, whether from the roof of a building, the surface of a structure, footings of a structure or any other surface or subsurface drainage shall be conveyed separately from sanitary sewage. If separate public storm and sanitary sewers are available, the Chief Engineer shall require separate connections for the separate storm and sanitary lines from the private property. If separate storm and sanitary sewers are not available, but a combination sewer is available, the Chief Engineer may institute the following actions based on engineering needs:

- A.** Require separate connections for the separate sewage lines from the property to the same combination sewer;
- B.** Permit joining of the separate lines at the curb line closest to the property line or edge of an easement for single discharge into the combination public sewer; or
- C.** Require onsite infiltration of surface or subsurface drainage to minimize or eliminate the need for offsite discharge.

17.32.090 Connections to Public Sanitary and Storm Sewers.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Except as otherwise allowed by the City, it is unlawful for any person to allow or cause a connection that will result in the discharge of sanitary sewage into a public sewer that has been designated by the Chief Engineer to be used solely for storm drainage.
- B.** Except as otherwise allowed by the City, it is unlawful for any person to allow or cause a connection that will result in the discharge of storm drainage, collected groundwater, uncontaminated water used for refrigerating or cooling purposes, or steam condensation into a public sewer designated by the Chief Engineer to be used solely for sanitary sewage.

17.32.095 Sewer Extension Assessments and Reimbursement.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** When a public sewer is extended past or to properties, all property owners benefiting from the sewer extension shall be assessed a share of the anticipated cost of the extension based on the following two revenue generation methods:
 - 1.** Local Improvement Districts as described in Chapter 17.08; or
 - 2.** Other charges as specified in Section 17.36.120.
- B.** When properties that will be served by the sewer extension do not meet the cost share criteria of the programs above, and do not contribute toward the cost of the sewer, the property owner or developer paying for the sewer extension shall be reimbursed by the City for part of the cost of such extension in accordance with Subsections 1. and 2.
 - 1.** The amount of reimbursement for a sewer extension shall be limited to the amount of revenue that would be received from the line and branch charge (required in Section 17.36.060) if, upon acceptance of the sewer by the City, all properties adjacent to and capable of receiving gravity service were to connect. The reimbursement shall not exceed the cost of an equal length of 8-inch-diameter sewer line, as determined by the Chief Engineer.
 - 2.** The reimbursement for any project shall not exceed 50 percent of the amount budgeted by the City in any fiscal year. The total reimbursement in any fiscal year shall not exceed the amount budgeted for that purpose in that year, however funds may be committed against the next year's budgeted amount.

17.32.100 Reimbursement for Installation of Sewer Backflow Devices in Existing Buildings on Combination Sewer Lines.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** A building owner may submit an application for partial reimbursement of the cost for installation of a sewer backwater device on the sewer line, in floor drains, sinks, laundry trays, basins, automatic washers, or other fixtures in the basement with exposed traps.
- B.** To be eligible, the building, dwelling or structure must be connected to the City combined sewer system and have experienced sewer backups or be in an area vulnerable to sewer backups, as determined by the Director.

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- C.** Installation of said device or devices shall be pursuant to Title 25, Plumbing Regulations, or the Code of the City of Portland, including, but not limited to, Chapter 25.05, Permits.
- D.** Payment to the property owner of the City's share of the expense shall be made upon the Bureau of Development Services' final inspection and the owner's submittal of the plumber's billing for the work.
- E.** By participation in the cost of installation, the City does not guarantee or in any manner warrant the device or devices, nor does the City give any warranty that the device will prevent future flooding, and the City will not assume any responsibility for damages incurred as a result of the flooding subsequent to installation of any device or devices. The owner shall be required to look only to such warranty or guarantee as may be secured from the manufacturer of the device or devices and/or the contractor.
- F.** As of July 1, 1996, the building owner shall pay the first \$100 of the cost of such installation, the City shall pay the next \$1,500 of such costs, and the building owner shall pay any amount in excess of \$1,600.
- G.** All devices installed pursuant to this Section shall be owned by the building owner, who shall assume all duties and costs of maintenance, repair and replacement.

17.32.110 Application for Permit to Construct a Public Sewer or Drainage Improvement.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** All persons desiring to construct a public sewer or drainage improvement shall obtain a permit prior to beginning work. The permit application shall contain the following information:

 - 1.** A description of the proposed improvement.
 - 2.** Locations and names of proposed streets where improvements will be made, location of any off-street improvements, and the name of the proposed plat.
 - 3.** A standard acknowledgement of the standard permit conditions described in Section 17.32.140.
 - 4.** Any other information the Chief Engineer deems appropriate.

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The permit shall be issued after the sewer or drainage improvement plans have been approved by the Chief Engineer.

- B.** All persons wishing to construct a public sewer or drainage improvement in advance of plat recording of a subdivision or planned unit development may be issued a permit by the Chief Engineer only after:
1. The sewer or drainage improvement plans have been approved by the Chief Engineer;
 2. The final plat, with or without required signatures affixed, has been submitted to the Bureau Development Services;
 3. The Bureau of Development Services have given written assurances that subdivision or planned unit development approval conditions have been or will be met;
 4. All easements outside the subdivision or planned unit development have been obtained, and
 5. The applicant has complied with Section 17.32.170 of this Code.

17.32.120 Deposit Required.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** When the applicant chooses to utilize City design services, the permit application shall include payment of a deposit in an amount to be determined by the Director as described in administrative rules. All deposits must be made before any City design work begins.
- B.** The City shall retain the amount of the deposit as compensation for the preparation of design and plans or for review efforts if:
1. A permit application or issued permit has had no action or communication for one year from the previous contact; or
 2. A permit is not issued for the proposed improvement within one year from the time the design and plans are reviewed and completed.
- C.** If a permit is issued for the proposed improvement within one year from the time the design and plans are completed, the amount of the required deposit shall be applied to the cost of the permit fee for such improvements.

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17.32.130 Refusal of Public Sewer or Drainage Improvement Permit.

- A.** The Chief Engineer may refuse to issue a permit if:
- 1.** In the judgment of the Chief Engineer, the proposed improvement is not suitable in the circumstances or will not be uniform with existing or proposed public sewer or drainage improvements in the immediate vicinity.
 - 2.** The application is not modified as the Chief Engineer deems necessary.
 - 3.** The City Engineer has not issued a street opening permit if the public sewer or drainage improvement is or will be located within a public right of way or area to be designated as a public right of way.
 - 4.** The application is to repair, replace or upgrade an existing private sewer or drainage system that is nonconforming with public standards. The Chief Engineer may allow continued use of a nonconforming system if the Chief Engineer determines that it is in the public interest.
- B.** The Chief Engineer shall have the authority to refuse issuance of public sewer or drainage improvement permits to any person until the requirements of permits previously issued are complied with. This authority shall include, but not be 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.

17.32.140 Contents of Permit.

- A.** Any permit issued for the construction of a public sewer or drainage improvement may contain conditions that shall be binding upon the permittee and current and subsequent property owners. Such conditions may include:
- 1.** Full payment of permit fees.
 - 2.** Prior filing of a performance bond, cash, or other financial guarantee in lieu thereof in an amount not to exceed the design engineer's estimate for construction and engineering, insurance.
 - 3.** Specifics about the kind of work and the time in which the same is to be completed.
 - 4.** Such other requirements as the Chief Engineer finds appropriate in the public interest.

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- B.** All permits to construct a public sewer or drainage improvement shall include the following standard conditions in addition to any other condition the Chief Engineer deems necessary:
1. The resulting public sewer shall be located in a public easement or public right of way and shall come under public control upon plat and easement recording with the County.
 2. City personnel may enter upon the particular private property for the purpose of testing, inspection and surveying if required, during the course of construction of the public sewer or drainage improvements.
 3. City inspection personnel may reject or require correction of work that is not in accordance with the approved plans and standard specifications and would prevent future acceptance of the improvements.
 4. The plat and easements must be recorded with the County prior to final acceptance of the public sewer improvements.
 5. The permittee shall hold the City of Portland harmless against any liability that may occur during construction prior to dedication of the right of way or recording of the easement, and the permittee assumes all risk of loss that 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 the permittee's improvements.
 6. Any drainage improvements made on private property shall be permanently maintained at the expense of the private property owner as a condition of the drainage improvement permit.
 7. The permittee shall, at the permittee's own expense, maintain the public sewer or drainage improvements for a period of 24 months following the letter of completion by the Chief Engineer, as assurance against defective workmanship or materials employed and to assure the improvement is properly operating and being maintained as designed. BES may extend the warranty period for any repairs, alterations or rehabilitations that need to occur during the original warranty period.
 8. The issuance of a permit in no way waives any requirements by the City or any other public agency that may be associated with the development of a plat or Planned Unit Development

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17.32.170 Work Done Under Permit.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** All work done under and in pursuance of a permit shall be under the authorization of the Chief Engineer, 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 Chief Engineer may establish standards for particular types or classes of work to be performed by contractors or by persons permitted to construct facilities in streets, easements, or other public property. Any person constructing the improvement shall comply with such standards unless otherwise specifically authorized by the Chief Engineer to deviate from those standards.
 - 1.** All discharges must be routed to a discharge point approved by the Director. Approval of discharge points must meet the following standards:
 - a.** The discharge must be conveyed along a route of service approved by the Director.
 - b.** The discharge point must comply with the following standards and specifications:
 - (1)** Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual.
 - (2)** Stormwater or other discharges to the City's storm and drainage system must comply with the Stormwater Management Manual.
- C.** The Chief Engineer shall refuse to accept work that is not in full compliance with the plans, specifications, permit or other contract documents. If the work is refused by the Chief Engineer, it shall not be accepted unless corrected to conform to plans and specifications.

17.32.180 Original Documents Become the Property of the City.

Any plans, specifications, survey notes or other original documents as required by the Chief Engineer that were prepared for or produced during the design or construction of a public sewer or drainage improvement become the property of the City and shall be delivered to the Chief Engineer before acceptance of the improvement by the Chief Engineer.

17.32.190 Acceptance of Completed Improvement by Chief Engineer of the Bureau of Environmental Services.

- A.** Notice of Construction Completion. During the course of construction and before issuance of a letter of completion from the BES Chief Engineer or a certificate of completion from the Bureau of Transportation for joint projects, the BES Chief Engineer shall inspect the sewer or drainage improvement and determine if the various kinds of work performed are in compliance with the plans, specifications and allowances of the permit and meet City standards for quality of workmanship. The Chief Engineer shall check the improvement for alignment, proper computation of quantities, and conformance with the established grade. Once this acceptance is garnered, the maintenance and warranty period will commence.
- B.** Certificate of Completion of the Maintenance and Warranty Period. The purpose of the warranty period is to assure the public improvement is operating as designed and is in a well-maintained condition upon conveyance to the City. All of the work required during the warranty period must be completed to the satisfaction of the Chief Engineer prior to completion certificate issuance. The Chief Engineer, or in the case of joint permits the Transportation permit manager, shall issue a warranty completion certificate accepting the improvement.
- C.** Council Acceptance. Council may directly accept improvement if it conforms to Code provisions and proper grades filed by the Chief Engineer.

17.32.200 Permit-Related Records.

The Bureau of Environmental Services shall keep a record of improvements under permit, permit issuance under this Chapter, permit conditions, and the date of acceptance, if made.

17.32.210 Removal of Public Sewer or Drainage Improvement.

In the event the Chief Engineer or the City Council does not accept an improvement made pursuant to the improvement permit within one year after completion, the permittee shall remove the improvement and restore the public area to at least its prior condition or to the extent directed by the BES Chief Engineer or City Engineer, at the permittee's expense.

Chapter 17.33

REQUIRED PUBLIC SEWER CONNECTION

(Chapter replaced by Ordinance No. 183397,
effective January 8, 2010.)

Sections:

17.33.005	Intent.
17.33.020	Definitions.
17.33.030	Sewer Connection Mandated.
17.33.040	Mandated Sewer System Connection Charges.
17.33.050	Converting Nonconforming Sanitary Sewer Connections.
17.33.060	Sanitary Sewer Conversion Charges.
17.33.070	Deferrals of Required Sewer Connections.
17.33.075	Financial Assistance for Required Sewer Connection.
17.33.080	Declaration of Nuisance.
17.33.090	Abatement by Owner.
17.33.100	Connection Enforcement.
17.33.110	Resolution Actions Available to Property Owners.
17.33.130	Notice Sufficiency.
17.33.150	Severability.

17.33.005 Intent.

- A.** The intent of this Chapter is to:
- 1.** Facilitate timely connection of individual properties to the public sewer system when a public sanitary sewer is available;
 - 2.** Facilitate the conversion of nonconforming private sewer systems to individual property connections along the route of service approved by the City; and
 - 3.** Provide for financial assistance to property owners required to make a new sewer connection.
- B.** The Bureau of Environmental Services (BES) shall identify the most appropriate means to construct public sewer improvements to facilitate sanitary sewer connections along approved routes of service based on factors that protect public health and safety, and minimize the financial impacts on the City's sanitary sewer utility and utility ratepayers. BES shall establish the criteria used to make system

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improvement decisions in administrative rules. Unless otherwise established, BES is responsible for administering the provisions of this Chapter.

17.33.010 Administrative Rules and Procedures.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.33.020 Definitions.

(Amended by Ordinance No. 185397, effective July 6, 2012.) For the purpose of this Chapter, the following definitions and applicable definitions of Section 17.32.006 shall apply:

- A. “Available Public Sewer”** means a public sewer that is within 100 feet or one-half block, whichever is less, of property to be served, without crossing another property to make the new connection, or such other conditions of availability as are established by administrative rule. In cases of onsite conveyance or disposal system failure, sewer shall be deemed available if within 300 feet.
- B. “Branch Sewer”** means the public portion of the horizontal piping system that connect from the plumbing system of a building or buildings to a public sewer.
- C. “Common Private Sewer System (also called Party Sewer)”** means that portion of a building sewer that:
 - 1.** Is not owned by the City of Portland;
 - 2.** Is used for draining more than one building under different ownership; and
 - 3.** Conveys the discharge to a sewer service lateral, public sewer, private sewage disposal system, or other point of disposal.

Common private sewers are found on private property and in private and public rights-of-way, including easements.

- D. “Connection”** means the connection of all sanitary waste and drainage disposal lines from all development on a property to the public sewer and drainage system.
- E. “Director”** means the Director of the Bureau of Environmental Services or the Director’s designee.
- F. “Immediately Available Public Sewer”** means a public sewer to which a property can connect without further extension of the public system.
- G. “Nonconforming Sewer”** means a private sanitary sewer that is:

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1. Not on the same public or private property as the structure or structures being served by the sewer; and
2. Not located within a recorded sewer easement or subject to a recorded covenant for easement regarding use of the sewer and meeting the standards for easements specified in administrative rules.

H. “Onsite Sewage Disposal System” means a cesspool or the combination of a septic tank or other treatment unit and effluent sewer and absorption improvement

See Figure 13 at the end of this Title for graphical representation of these definitions.

17.33.030 Sewer Connection Mandated.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A. Applicability.** Properties having development that generates or may generate sanitary waste must decommission onsite sewage disposal systems and connect to the public sewer when:
1. The development is not completely connected to a public sewer system;
 2. A public sewer is immediately available without the need for further sewer extension; and
 3. A sewer branch has been provided to curb closest to the property line or property line.
- B. Timing.** Properties that meet these criteria must be connected to a public sewer within three years of when notice being sent to the property owner or legal title holder of the immediate availability of the public sewer system, the requirement to connect, and the time limit for connection. Four additional notices of the connection requirement will be sent at least 360, 180, 90 and 30 days prior to the date of the connection deadline.
- C. Location.** All connections shall be made along a route of service approved by the Director.
- D.** Any construction for which a building permit is required under the terms of Title 24 of this Code and which meets the requirements of Subsection A. above, shall connect to the public sewer system prior to the issuance of a final inspection report or Certificate of Occupancy by the authorized City agency.
- E.** Proof of the sewer connection shall be by documents of the City, by proof provided by the property owner, or development of physical evidence or

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inspection. The sufficiency or adequacy of any proof presented shall be left to the sole discretion of the Director.

- F.** Three (3) years from notification of the requirement to connect, a property that has not connected becomes connection delinquent and is subject to proceedings to compel connection to the public sewer system.
- G.** When property subject to the requirement imposed by this Section is sold and has less than 180 days remaining in the three-year connection period referred to above is sold, the new owner may enter into an agreement with the City to extend the time to connect to the public sewer system for 180 days from the date of the sale of the property. In the event a new owner elects to enter into an agreement, said election shall constitute a waiver of the right to the administrative review provided for in Section 17.33.100. As used herein, the term “sale” includes every disposition or transfer including the transfer of equitable title or legal title to real property.

17.33.040 Mandated Sewer Service Connection Charges.

(Amended by Ordinance No. 185397, effective July 6, 2012.) A property owner must pay or finance sanitary sewer system development charge and, if not previously assessed, sewer line and branch charges collectively known as sewer connection charges described in Chapter 17.36 prior to the issuance of sewer connection permits. Property owners may elect to pre-pay sewer connection charges no more than 5 years before availability of public sewer.

Only one agreement per property may be entered into under the terms of this subsection. As used herein, the term “sale” includes every disposition or transfer including the transfer of equitable title or legal title to real property.

17.33.050 Converting Nonconforming Sanitary Sewer Connections.

- A. Applicability.** Properties using nonconforming sewer systems shall be required to convert to conforming sewer connections when public sewer is available within 100 feet of the property being served by the nonconforming system. All connections shall be made along a route of service approved by the Director. Regardless of distance from available sewers, the City shall voluntarily request that property owners along routes identified for sewer extension participate in the Nonconforming Sewer Conversion Program as identified in administrative rule.
- B. Exemption.** The Director may exempt properties with nonconforming sewer connections from the requirement to convert to a conforming public sewer connection in the following circumstances:

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1. The Director determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety; or
 2. Other circumstances exist justifying exemption as identified in BES administrative rules.
- C. **Timing.** The City requires property owners to convert or abandon a nonconforming sanitary sewer connection within 180 days of the date on the notice of sewer availability. All individual sewer connections shall be made in conformance with the Sewer and Drainage Facilities Design Manual. The City will provide written notice to all affected property owners at 180, 90, and 30 days prior to the conversion deadline.

17.33.060 Sanitary Sewer Conversion Charges.

Property owners shall pay the sanitary sewer conversion charges at the time they request a permit for a new conforming sewer connection. A property owner can elect to pay or finance conversion charges and connection construction costs as described in Chapter 17.36 and associated program administrative rules. The conversion charge is paid in lieu of standard line, branch and system development and connection charges set forth in Chapter 17.36.

- A. **Calculation of Conversion Rates.** Council shall establish rates for connecting to the sanitary sewer by general ordinance adopted annually for the purposes provided in Chapter 17.36 of this Title and the associated program administrative rules. Sanitary sewer conversion rates are categorized on the level of project complexity and recover costs for City sewer extension projects that serve the property.
- B. **Calculation of Total Charges.** Total charges shall be calculated by multiplying the conversion rate by the assessable square footage of benefited property as determined by City Code Section 17.36.040 and associated administrative rules.
- C. **Timing.** Property owners must pay or finance the conversion charges prior to the issuance of permits to replace the nonconforming sanitary sewer connection with an individual and direct connection to a public sanitary sewer. BES shall calculate sanitary sewer conversion charges for subject properties based on the sewer conversion rates in effect on the earliest of the following dates:
 1. The date the property owner files a signed waiver of remonstrance for the formation of a future local improvement district to construct public sanitary sewers;

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2. The date the property owner pays the sanitary sewer conversion charges or finances the charges by means of the City's assessment loan or safety net program;
 3. Where the property is served by a local improvement district, the date the City calculates estimated special assessments for the district formation notice; or
 4. Where a property is served by a sewer extension project, the date the property owner seeks sewer connection and/or plumbing permits to make an individual and direct connection to the public sewer system.
- D.** Relationship to Special Assessments for Local Improvement Districts. BES shall apply the following conditions to the calculation of special assessments for local improvement districts organized for the purposes of this Section:
1. The estimated special assessment roll shall be limited to the amount of the sanitary sewer conversion charges as determined by Section 17.33.060.
 2. In the event that a benefited property owner paid or financed sanitary sewer conversion charges prior to the preparation of the estimated special assessment roll as provided in this Section, BES shall establish a zero assessment for the benefited property.
 3. BES shall pay to the LID Construction Fund the difference between the final total costs of each local improvement district organized for the purposes of this Section, and the sum of estimated assessments that were established at the formation of the district.
 4. To the greatest extent practicable BES shall refund property assessments in the event that the total actual costs of the local improvement district are less than the sum of sanitary sewer conversion charges calculated for the benefited properties, taking into account the following:
 - a. BES shall apportion the difference to each affected property in proportion to the property's share of the sum of sanitary sewer conversion charges paid, financed or incorporated into the local improvement district special assessment roll.
 - b. The final assessment roll shall reflect the apportionment based on the actual project costs.
 - c. Where a property owner paid or financed the sanitary sewer conversion charge prior to the notice of estimated assessment, BES

shall determine the most administratively efficient method to refund or credit the apportioned difference allocated to the property. Any refund or credit shall be provided to the current equitable title holder of the property at the time the Council adopts the final assessment roll for the local improvement district.

17.33.070 Deferrals of Required Sewer Connections.

Deferrals for making the actual connection to public sewers shall be limited to five years, may be renewed based on a re-evaluation of eligibility, and shall not transfer with the sale or transfer of property. Deferred property shall be subject to the requirements of this Chapter following termination of the connection deferral. Eligibility criteria vary for the Mandatory Connection and the Sewer Conversion programs. Deferrals may be based on either of the following, as described more fully in program administrative rules:

- A. Mandatory Connection.** Deferrals shall be granted for the following
 - 1. Applicant-based criteria. These criteria include financial, medical or other hardship criteria related to the property owner; and
 - 2. Property-related criteria. These criteria are based on hardship conditions related to the property and the work required to complete the sewer connection.
- B. Nonconforming Sewer Conversion.** The Director may defer conversion to conforming sewer connections if:
 - 1. The property owner obtains a temporary easement from all property owners along the existing nonconforming sewer lines route of service;
 - 2. All users of the nonconforming line sign a public sewer waiver to assure their participation in paying for future public sewer extensions; and
 - 3. All users of the nonconforming system shall prove the integrity of the nonconforming line and shall grant the City authority to inspect the line to assure its integrity.
 - 4. The Director may waive one or more of these requirements for deferrals in cases of hardship of the applicants as described in associated administrative rules.

17.33.075 Financial Assistance for Required Sewer Connection.

(Amended by Ordinance No. 185397, effective July 6, 2012.) The City shall provide financial assistance in the form of loans for both Mandated Sewer Connection and Nonconforming Sewer Conversion programs to eligible property owners based on

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administrative rules and procedures adopted by the Director. The Director shall offer a variety of loan instruments to meet specific property owner needs. Applicants may request financing assistance for the following costs:

- A.** Sewer connection work performed on private property to decommission existing onsite conveyance and disposal systems and make new approved sewer connections.
- B.** Connection fees charged by the City as described in Section 17.36.040.

17.33.080 Declaration of Nuisance.

Any property not connected to a public sewer system as required by Section 17.33.030, Section 17.33.050, or Subsection 17.32.055.C. is hereby declared a nuisance and subject to abatement or correction as provided for in Section 17.33.100. The Director is authorized to take steps necessary to abate such a nuisance, including authority to order remediation or to expend City funds to abate the nuisance. In the latter case, the Director is further authorized to charge the responsible parties for all costs of the abatement effort. The Director shall establish the procedures and forms to be used to notify property owners about sewer system availability and connection delinquencies. Costs of nuisance abatement may be assessed as a lien against property as provided in this Code.

17.33.090 Abatement by Owner.

The owner of a connection delinquent property shall have at least 30 days from the date of the Notice to Remove Nuisance to file documentation of the removal or abatement of the nuisance or to file a written request for an administrative review of the nuisance abatement requirement. Following notification of the administrative review and determination by the Director, the property owner shall have 10 days to file a written request for an appeals hearing by the Code Hearings Officer as set forth by Title 22 of this Code.

17.33.100 Connection Enforcement.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** The City shall attempt to resolve issues with affected property owners within BES to the extent possible. The following enforcement steps shall be used:
 - 1.** Administrative Review. Affected property owners shall be offered the opportunity for administrative review with the applicable BES program manager to determine if agreement can be reached concerning the timing and actions to achieve a conforming connection to the public sewer. If an affected property owner does not pursue an administrative review, BES shall issue its final determination setting forth the requirements and deadline to connect and finance or pay for fees. Failure of the property owner to meet this deadline shall be deemed a violation of this Chapter.

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2. Final Determination. The BES final determination shall be the substantive decision for City program code compliance proceedings before the City Code Hearings Officer pursuant to Title 22 of the City Code. BES shall submit information addressing the following facts:
 - a. The subject property has one or more on-site structures with plumbing facilities that require sanitary waste disposal pursuant to State Plumbing Code or related City Code.
 - b. The subject property is not fully connected or has a nonconforming connection to the City sewer system.
 - c. The subject property has direct access via an intended route of service to a branch, or other component of the City sewer system abutting a property line or a permanent easement acquired for the benefit of the property.
 - d. The deadlines described in the sewer availability notice, notice of connection deferral and/or the Notice to Remove Nuisance have expired without full compliance with the sewer connection requirement.
 - e. The property owner does not have a current sewer connection deferral.
- B. If the nuisance described in the notice has not been removed or information is not provided establishing that such nuisance does not exist, the City may apply for an order authorizing the City to abate the nuisance, consistent with the terms and requirements of the Code Hearings Officer and the administrative rules associated with this Chapter. The Code Hearings Officer shall have discretion to modify connection dates, required actions by property owners, and types and timing of City abatement activities.
 1. The City shall maintain an accurate record of all expenses incurred, including an overhead charge of 26 percent, an administration fee for each occurrence as specified in the administrative rules, sewer user charges and permit fees, which shall be assessed as a lien on the property in accordance with the provisions of Chapter 22.06.
 2. It shall be unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever such officer, employee, contractor, agent, or authorized representative of the City is engaged in the work of

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connecting a property to the public sewer or removing or abandoning an existing sewage disposal system under the authority of an order of the Code Hearings Officer.

3. Neither the City nor any of its officers, employees, contractors, agents, or authorized representatives shall be liable for any damage to the real property or any improvements or personal property due to the non-negligent enforcement or administration of this Chapter.
- C. Except as provided elsewhere in this Title or when the public welfare is endangered; BES may at its discretion withhold any service that is provided by BES from the owner(s) (or the owner's agent) of connection delinquent property. This may include but is not limited to refusal to accept application for permits for development on property of the said owner(s) other than the connection delinquent property. Withholding of other services may continue until the connection delinquency has been corrected.
- D. The City may seek, in any court of competent jurisdiction, a judgment against the person or property failing to connect to a sewer in accordance with the provisions of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and connection charges as determined by the Director or Code Hearings Officer.

17.33.110 Resolution Actions Available to Property Owners.

- A. **Mandatory Sewer Connections.** Property owners subject to the Mandatory Sewer Connection Program may appear in code compliance cases before the City Code Hearings Officer. Property owners shall receive notice of the deadlines and procedures for testifying before the City Code Hearings Officer. The Code Hearings Officer shall schedule a hearing to hear evidence from both the property owners and City on whether the City followed established procedures for requiring connection. The Code Hearings Officer's decision is final. No property owner initiated appeals are allowed in the Mandatory Sewer Connection Program.
- B. **Nonconforming Sewer Conversions.** Property owners subjected to the Nonconforming Sewer Conversion Program may seek review by the City Code Hearings Officer as follows:
1. **Testifying at Code Compliance Hearings.** When BES is presenting a Code Compliance case to the City Code Hearings Officer as allowed in Subsection 17.33.100 B., property owners shall receive notice of the deadlines and procedures for testifying at the hearing with the City Code Hearings Officer. The Code Hearings Officer shall schedule a hearing to hear evidence from both the property owner and City on whether the City

followed established procedures for requiring connection. The Code Hearings Officer's decision is final.

2. Property Owner-Initiated Appeals. Property owners may initiate appeals to the Code Hearings Officer on the following issues:
 - a. Conversion Charges. The property owner may appeal the determination that the complex rate will be charged.
 - b. Deadline for Connection or Resolution. Unless a sewer is immediately available, the property owner may appeal the 180-day deadline based on extenuating circumstances.

17.33.130 Notice Sufficiency.

For purposes of this Chapter, notice shall be deemed to have been received upon the mailing of said notice by first class mail or upon delivery of the notice in person. An error in the name of the owner or agent of the owner or the use of a name other than that of the true owner or agent for the property shall not render the notice void.

17.33.150 Severability.

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any word, definition, clause, section or provision of this Chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event a definition is held to be invalid or is severed, the defined word or term shall be deemed to have the meaning given to that word or term under Oregon law if Oregon law contains such a definition. If there is no established definition of the word or term under Oregon law, the word or term shall have its ordinary dictionary meaning. It is hereby declared to be the Council's express legislative intent that this Chapter would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein.

Chapter 17.34

SANITARY DISCHARGES

(Chapter added by Ordinance No. 153801;
amended by Ordinance Nos. 163816 and 180037, effective April 28, 2006.)

Sections:

17.34.005	Intent of Chapter.
17.34.010	Declaration of Policy.
17.34.020	Definitions.
17.34.030	General Discharge Prohibitions.
17.34.040	Discharge Limitations.
17.34.050	Pretreatment Facilities.
17.34.060	Accidental Spill Prevention and Control.
17.34.070	Industrial Wastewater Discharge Permits.
17.34.075	Other Sanitary Discharge Permits or Authorizations.
17.34.080	Inspection and Sampling.
17.34.090	Reporting Requirements.
17.34.110	Enforcement.
17.34.115	Requests for Reconsideration.
17.34.120	Records Retention.
17.34.130	Conflict.
17.34.140	Severability.
17.34.150	Fees.

17.34.005 Intent of Chapter.

(Added by Ordinance No. 180037, effective April 28, 2006.) It is the intent of the City to provide needed sewer service to all users while meeting the outlined objectives. This Chapter provides the structure under which the service will be provided for industrial wastewater dischargers so that the system is protected and can continue to provide efficiently for the wastewater treatment needs of the City. This chapter describes a group of regulations that applies to all sanitary discharges, including those regulated under BES Pre-treatment and City discharge authorization programs. This chapter applies to all separate sanitary and combined sewer systems, which are both considered sanitary sewers for the purposes of this chapter.

17.34.010 Declaration of Policy.

(Amended by Ordinance Nos. 172879, 180037 and 185397, effective July 6, 2012.) It is the policy of the Bureau of Environmental Services (BES) to provide the planning, engineering and administration necessary to develop and manage sewer facilities that are adequate for the conveyance, treatment and disposal of waste water from within the City

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and to operate the sewer system in such a manner which protects public health and the environment. In carrying out this policy, the objectives of this Chapter are:

- A. to prevent pollutants from entering the sewer system which will interfere with its normal operation or contaminate the resulting sludge;
- B. to prevent the introduction of pollutants into the sewer system which will not be adequately treated and will pass through into the environment;
- C. to improve the opportunity for recycling and reclamation of wastewater and sludge;
- D. to insure protection of worker safety and health;
- E. to insure that all dischargers comply with applicable federal, state and local laws and regulations governing wastewater discharges and that sanctions for failure to comply are imposed.

17.34.020 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) As used in this Chapter and associated rules the following definitions apply:

- A. **“Branch Sewer”** means the public portion of the underground piping system that connects from the plumbing system of a building or buildings to a public sewer.
- B. **“Categorical Pretreatment Standards”** mean limitations on pollutant discharges to POTWs from specific types of new or existing industrial users. These standards are promulgated by the EPA in accordance with Sections 307 (b) and (c) of the Clean Water Act. This term includes prohibitive limitations established pursuant to 40 CFR 403.5
- C. **“Clean Water Act (CWA)”** means the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.).
- D. **“Combined Sewer”** means a sewer designed to convey both sanitary sewage and stormwater.
- E. **“Director”** means the Director of The Bureau of Environmental Services or the Director’s designee.
- F. **“Discharge”** means any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking, or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or a public sewer or drainage system.

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- G. “Discharge Authorization”** means a written approval by the Director which prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.
- H. “Discharger”** means any person who causes or permits a direct or indirect discharge to the City’s sewer and drainage system.
- I. “Domestic Waste”** means any waste consistent with that generated from single or multiple residential dwellings including, but not limited to, wastes from bathrooms, laundries and kitchens.
- J. “Domestic Wastewater”** means any water that contains only domestic waste.
- K. “Hazardous Substance”** means any substances referenced in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §9601 et seq.), section 502(13) of the Clean Water Act or other substance at concentrations specified in those lists or, if no concentration is specified, at concentrations designated by the Director.
- L. “Industrial User”** means any person that discharges industrial wastewater to the City sewer system.
- M. “Industrial Wastewater”** means any discharge resulting from, or used in connection with, any process of industry, manufacturing, commercial food processing, business, agriculture, trade or research. Industrial wastewater includes, but is not limited to, the development, recovery or processing of natural resources and leachate from landfills or other disposal sites.
- N. “Industrial Wastewater Discharge Permit”** means a permit to discharge industrial wastewater into the City sewer system issued under Section 17.34.070 and which prescribes certain discharge requirements and limitations.
- O. “Interference”** means a discharge that alone or in conjunction with other discharges, inhibits or disrupts the normal operation of the City sewer system or contributes to a violation of any requirement of the POTW’s NPDES permit. This includes any increase in the magnitude or duration of a violation, any increase in cost due to damage to the system, additional treatment of sewage, sewage sludge use or disposal, or in compliance with local, state or federal regulations or permits related to sewage treatment and sludge disposal.
- P. “National Pollutant Discharge Elimination System (NPDES)”** means the Clean Water Act (40 CFR Part 122) regulations that require dischargers to control and reduce pollutants in discharges to waters of the United States

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- Q.** “**Pollutant**” means an elemental or physical material that can be mobilized or dissolved by water or air and that could create a negative impact to human health, safety, or the environment. Pollutant discharges into the City sewer system may be prohibited or limited by this Chapter or administrative rules.
- R.** “**POTW**” means Publicly Owned Treatment Works, which includes any devices and systems, owned by a State or municipality, used in the collection, transportation, storage, treatment, recycling and reclamation of wastewater.
- S.** “**Pretreatment**” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater in accordance with federal, state and local laws, regulations and permits prior to or in lieu of discharging or otherwise introducing such pollutants into the City sewer system.
- T.** “**Toxic Substance**” means any chemical listed in Oregon’s water quality standards for toxic pollutant tables in OAR, Division 340-041-0033; the CWA effluent guidelines list of toxic pollutants at 40 CFR 401.15; or the toxic chemical release reporting specific toxic chemical listings at 40 CFR 372.65 at concentrations specified in those lists or, if no concentration is specified, at concentrations designated by the Director.

17.34.025 Authority of Director of Environmental Services to Adopt Rules.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.34.030 General Discharge Prohibitions.

(Amended by Ordinance Nos. 172879, 180037 and 185397, effective July 6, 2012.)

- A.** It is unlawful to discharge industrial wastewater into the City sewer system except in compliance with this Chapter and rules adopted hereunder.
- B.** Prohibited discharges. It is unlawful to discharge, cause to discharge, or allow to discharge directly or indirectly into the City sewer system any substance, alone or in combination with others, that may inhibit, interfere with, injure, harm, damage, create a hazard to or impair the performance of the City’s conveyance, collection or treatment processes and systems. Prohibited discharges also include those that create or could create a nuisance or a threat to human health or the environment or that:
- 1.** Contains substances that are not amenable to treatment or reduction by the sewage treatment process employed or are only partially amenable to treatment;

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2. Contain liquids, solids, or gases which, either alone or by interaction, may cause a fire or an explosion or injure the sewer system or wastestreams;
3. Have a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods prescribed at 40 CFR 261.21 or could cause the atmosphere in any portion of the sewer system to reach a concentration of 10 percent or more of the Lower Explosive Limit (LEL);
4. Contain solids or viscous substances which may solidify or become discernibly viscous at temperatures above 0 degrees Celsius (32 degrees Fahrenheit) or are capable of obstructing the flow of wastewater or cause other interference with the operation of the sewer system;
5. Contain noxious, malodorous or toxic liquids, gases, vapors, fumes, or solids, in amounts that may violate the general prohibitions of Subsection 17.34.030 B.;
6. Contains hazardous or toxic substances, either alone or in combination with other substances may adversely affect receiving waters or in amounts that may violate the general prohibitions of Subsection 17.34.030 B.;
7. Have a pH of less than 5.0 or more than 11.5 without prior approval by the Director;
8. Are hotter than 65 degrees Celsius (149 degrees Fahrenheit) or are hot enough to inhibit biological activity or cause the temperature of the treatment plant influent to exceed 27 degrees Celsius (80 degrees Fahrenheit);
9. Contain material trucked or hauled from a cesspool, holding or septic tank or any other nondomestic source, except such material received at designated locations under City contract or permit;
10. Contain any material other than domestic waste larger than 0.65 centimeters (1/4 inch) in any dimension;
11. Contain dissolved solids may violate the general prohibition of Subsection 17.34.030 B.;
12. Contain excessive color which is not removed in the treatment process;
13. Contain radioactive material, except in compliance with a current permit issued by the Oregon State Health Division or other state or federal agency having jurisdiction;

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14. Contain petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through;
 15. Contain non-contact cooling water without prior approval by the Director;
 16. May cause sewer system effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse;
 17. Constitute a slugload per administrative rule;
 18. Constitute a batch discharges without written permission from the Director;
 19. Exceeds discharge limits adopted in permits or administrative rules;
 20. May cause the City to violate the terms of its NPDES permit; or
 21. May cause the City to violate sludge use or disposal criteria, treatment guidelines, or other applicable regulations developed under the Clean Water Act (33 USC 1251-1387), the Solid Waste Disposal Act (42 USC 6901-6992k), the Clean Air Act (42 USC 7401 -7671q), the Toxic Substances Control Act (15 USC 2601-2692), or any other federal or state statutes.
- C. A discharge or flow resulting from and emergency situation such as a water line break or fire fighting by the Fire Department shall not be prohibited from discharging to the sewer during the period of the emergency. Any repairs made after the period of emergency has ceased will comply with all regulations of this Code.

17.34.040 Discharge Limitations.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A. It is unlawful for a discharger to discharge wastes or wastewater to the City sewer system in excess of limitations established in an industrial wastewater discharge permit or in violation of the prohibited discharges in Section 17.34.030. The Director of Environmental Services shall establish specific discharge limitations under separate rules to meet the objectives of this Chapter.
- B. It is unlawful for a discharger to use dilution as a partial or complete substitute for adequate treatment to achieve compliance with the standards and limitations set forth in this Chapter, administrative rules, or in an industrial wastewater discharge permit issued pursuant to the Chapter. The Director may impose mass limitations

on dischargers who are using dilution to meet the applicable pretreatment standards or requirements of this Chapter, administrative rules or in other cases where the Director determines that the imposition of mass limitations is appropriate.

- C. The Director may authorize the use of equivalent concentration limits in lieu of mass limits for certain industrial categories, and allow the conditional use of equivalent mass limit in lieu of concentration-based limits where appropriate.
- D. Termination or limitation. Notwithstanding prior acceptance into the City sewer system of industrial wastewater, if the Director finds that industrial wastewater from a particular commercial or industrial occupancy or a class of similar occupancies cause or may cause damage, interference, hazard or nuisance to the City sewer system, City personnel or the receiving waters, the Director may limit the characteristics or volume of the industrial wastewater accepted or may terminate acceptance. Notice of the limitation or termination shall be given in writing to the occupant of the property or posted on the property involved, and shall specify the date when the limitation or termination is to be effective. It is unlawful for any person to discharge or permit the discharge of industrial wastewater in violation of this notice.

17.34.050 Pretreatment Facilities.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A. If, as determined by the Director, treatment facilities, operation changes or process modifications at an industrial user's facility are needed to comply with any requirements under this Chapter or are necessary to meet any applicable state or federal requirements, the Director may require that such facilities be constructed or that modifications be made to the pretreatment facilities within the shortest reasonable time. Compliance deadlines will be based on construction time, impact of the untreated industrial wastewater on the City sewer system, impact of the industrial wastewater on the marketability of the City treatment plant sludge or sludge products, and any other appropriate factor.
- B. Any requirement of this Chapter may be incorporated as a part of an industrial wastewater discharge permit issued under Section 17.34.070 or any other enforcement document and made a condition of issuance of such permit or discharge authorization for the industrial wastewater from such facility.
- C. Plans, specifications and other information relating to the construction or installation of required pretreatment facilities shall be submitted to the Director. No construction or installation shall commence until written approval of plans and specifications by the Director is obtained. No person, by virtue of such approval, shall be relieved of compliance with other local, State or federal laws relating to

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construction and permits. Every facility must be constructed in accordance with the approved plans and specifications and installed and maintained at the expense of the discharger.

- D.** Any person constructing a pretreatment facility shall also install and maintain at their own expense a sampling manhole or other suitable monitoring access for investigating the discharge from the pretreatment facility to the public sewer. The sampling manhole or monitoring access shall be placed in a location designated by the Director and in accordance with specifications approved by the Director.

17.34.060 Accidental Spill Prevention and Control.

(Replaced by Ordinance No. 185397, effective July 6, 2012.)

- A.** Notification. Any person becoming aware of spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 directly or indirectly into the City sewer system must immediately report such discharge by telephone to the Director and to any other authorities required under other local, state, or federal laws or regulations.
- B.** Written notice. Within 5 days following an accidental discharge as described in Subsection A. above, the discharger shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification will not relieve the discharger from any fines, civil penalties, or other liability which may be imposed under the authority of this Chapter or rules adopted hereunder or other applicable law.
- C.** Posted notice. A notice informing employees of an industrial wastewater discharger of the notification requirement above which contains information regarding reporting in the event of such a discharge shall be posted in a conspicuous place and shall be visible to all employees who may reasonably be expected to observe such a discharge.
- D.** Preventive measures. Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of hazardous or toxic substances or of substances prohibited under Section 17.34.030 to enter the City sewer system must be eliminated or labeled and controlled so as to prevent the entry of wastes in violation of this Chapter. The Director may require the discharger to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial wastewater discharge permit or as a condition of discharge authorization to the City sewer system. A schedule of compliance shall be established by the Director for completion of required actions within the shortest reasonable period of time. Inability to comply with this

schedule without an extension of time by the Director is a violation of this Chapter.

E. Accidental Spill Prevention Plans.

1. Dischargers that handle, store or use hazardous or toxic substances or substances prohibited under Section 17.34.030 on their sites shall prepare and submit to the Director an Accidental Spill Prevention Plan, according to the requirements set out in administrative rule, within 60 days after notification by the Director or as required by an industrial wastewater discharge permit.

17.34.070 Industrial Wastewater Discharge Permits.

(Amended by Ordinance Nos. 165068, 172879 and 185397, effective July 6, 2012.)

A. Requirement for a permit. Except as provided in Subsection 17.34.070 B. an industrial wastewater discharger must have an industrial wastewater discharge permit prior to discharging into the City sewer system if:

1. The discharge is required to be permitted under procedures contained in the City's approved pretreatment program; or
2. The discharger is a Significant Industrial User, which includes:
 - a. All industrial users subject to Categorical Pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
 - b. Any other industrial user that:
 - (1) Discharges an average of at least 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater);
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (3) Is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6),

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3. The Director may determine that an industrial user meeting the criteria above is not a “Significant Industrial User” if the discharge has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

B. Existing discharges.

1. If discharges occur prior to the date that an industrial wastewater discharge permit is required, the discharger shall be notified in writing by the Director that such a permit is required. Such existing dischargers shall be allowed to continue discharging into the City sewer system without an industrial wastewater discharge permit until a permit is issued or denied, provided the discharger files a completed environmental survey and application for an industrial wastewater discharge permit within 90 days of receipt of the notice.
2. Discharges that require an industrial wastewater discharge permit and are allowed to continue discharging without such a permit under Subsection 17.34.070 B.1. shall comply with the requirements of this Chapter and rules adopted hereunder.

C. Application for industrial wastewater discharge permit.

1. Existing Significant Industrial Users, shall submit application for a permit on a form provided by the Director within 180 days after the effective date of a categorical pretreatment standard issued by the U.S. EPA or within 90 days after receiving notification from the Director that such a standard has been issued, whichever is sooner.
2. New Source Dischargers. Any new source discharger determined by the Director to be a Significant Industrial User shall submit an application for a permit on a form provided by the Director within 90 days of notification by the Director. However, a new source discharger may not discharge to the sewer system without a permit.
3. Submission of the application for permit required by this Section will satisfy the requirements of 40 CFR 403.12(b).
4. The application for permit shall not be considered complete until all information required by the application form, requirements of this Chapter, or by administrative is provided. All fees must be paid and the certification statement required by 40 CFR 403.12(b)(6) signed by the

authorized representative. The Director may grant specific exemptions for these items.

D. Issuance of industrial wastewater discharge permits.

1. Industrial wastewater discharge permits shall be issued or denied by the Director within 90 days after a completed application is received, unless that period is extended in writing by the Director for good and valid cause.
2. Industrial wastewater discharge permits shall contain conditions which meet the requirements of this Chapter, administrative rules and applicable state and federal laws and regulations.
3. If pretreatment facilities are needed to meet the applicable pretreatment standards or requirements in an industrial wastewater discharge permit, the permit shall require the installation of such facilities on a compliance schedule.
4. Whenever an industrial wastewater discharge permit requires installation or modification of pretreatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule shall be included which establishes the date for installation of the pretreatment facilities or process changes. The compliance schedule may contain appropriate interim dates for completion of specified tasks. Compliance dates established in a permit cannot exceed federal categorical deadline dates.
5. Industrial wastewater discharge permits shall expire no later than 5 years after the effective date of the permit and shall not be transferable except with prior notification and approval from the Director.
6. The Director may deny the issuance of an industrial wastewater discharge permit if the discharge could result in violations of local, state or federal laws or regulations; cause interference or damage to any portion of the City sewer system; or create an imminent or potential hazard to human health or the environment.

E. Modification of permits.

1. An industrial wastewater discharge permit may be modified for good and valid cause at the written request of the permittee or at the discretion of the Director.

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2. Permittee modification requests shall be submitted to the Director and shall contain a detailed description of all proposed changes in the discharge. The Director may request any additional information needed to adequately review the application or assess its impact.
 3. The Director may deny a request for modification if he or she determines that the change will result in violations of local, State or federal laws or regulations, will cause interference or damage to any portion of the City sewer system, or will create an imminent or potential hazard to human health or the environment.
 4. If a permit modification is made at the direction of the Director, the permittee shall be notified in writing of the proposed modification at least 30 days prior to its effective date and informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes.
- F.** Change in a permitted discharge. A modification to the permittee's discharge permit must be issued by the Director before any significant increase is made in the volume or level of pollutants in an existing permitted discharge to the City sewer system. Changes in the discharge involving the introduction of a wastewater not previously included in the industrial wastewater discharge permit application or involving the addition of new pollutants shall be considered new discharges, requiring application under Section 17.34.070.
- G.** Renewal of Permits. A permittee shall apply for renewal of its industrial wastewater discharge permit within 90 days of the expiration date of the existing permit. Upon timely application for renewal, an existing permit will remain effective until the renewal application is acted upon.
- H.** Appeal of permit. Upon receipt of a final industrial wastewater discharge permit, a permittee may appeal any of its terms or conditions to the Code Hearings Officer in accordance with procedures set out at Chapter 22.10 of the Portland City Code; provided that such an appeal shall include a copy of the permit that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

17.34.075 Other Sanitary Discharge Permits or Authorizations

(Added by Ordinance No. 180037, effective April 28, 2006.) The City may require authorization for any discharge to the sanitary or combined sewer of materials that violate the discharge prohibitions listed in 17.34.030.

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- A.** Authorization may take the form of a written authorization for an intermittent or ongoing discharge. Authorization may also require the adherence to management practices to reduce pollutant releases associated with the authorized discharge
- B.** Dischargers may be required to provide:
 - 1.** Evaluation of the proposed discharge, including: sampling, prior to being granted authorization to discharge.
 - 2.** Adequate information and access to the location or process creating the discharge, to allow the City to fully evaluate any pretreatment needs for authorizing the discharge.
- C.** The City may require pretreatment for any discharge to the City's sewer system, including but not limited to requirements specified in 17.34.050.
- D.** Non-compliance with these requirements is subject to the enforcement steps specified in 17.34.110 and in the associated Sanitary System Discharge administrative rules.

17.34.080 Inspection and Sampling.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Inspection.
 - 1.** Authorized City representatives may inspect the monitoring facilities of any industrial wastewater discharger to determine compliance with the requirements of this Chapter. The discharger shall allow the City or its authorized representatives to enter upon the premises of the discharger at all reasonable hours for the purpose of inspection, sampling, photographic documentation or records examination and copying. The City shall also have the right to install on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.
 - 2.** Conditions for entry.
 - a.** The authorized City representative shall present appropriate credentials at the time of entry;
 - b.** The purpose of the entry shall be for inspection, observation, measurement, sampling, testing, photographic documentation, or records examination and copying in accordance with the provisions of this Chapter;

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- c. The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Director.
- d. All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the City representative(s) entering the premises.

B. Sampling.

- 1. Samples of wastewater being discharged into the sewer system must be representative of the discharge. Other sampling locations may be required by permit. All sampling and analyses shall be performed in accordance with the procedures set forth in 40 CFR Part 136 and any amendments thereto or with any other test procedures approved by EPA. If there are no approved test procedures the Director may approve other analytical procedures. The results of all samples taken shall be reported.
- 2. Samples taken by City personnel for the purpose of determining compliance with the requirements of this Chapter or administrative rule may be split with the discharger, or a duplicate sample provided in the instance of fats, oils and grease, if requested by the discharger before or at the time of sampling.

- C. Sampling manhole or access.** The Director may require an industrial wastewater discharger to install and maintain at the discharger's expense a suitable monitoring access such as a manhole in the discharger's branch sewer to allow observation, sampling and measurement of all industrial wastewaters being discharged into the City sewer system. Any monitoring access must be constructed in accordance with plans approved by the Director and must be designed so that flow measuring and sampling equipment can be conveniently installed. Access to the monitoring access must be available to City representatives at all times.

17.34.090 Reporting Requirements.

(Replaced by Ordinance No. 185397, effective July 6, 2012.)

A. Periodic compliance reports.

- 1. The Director may require reporting by industrial wastewater dischargers that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the

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treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

2. The Discharger must submit reports to the Director during the months of June and December, unless required on other dates or more frequently by the Director based on the nature of the effluent over the previous reporting period.
 3. The report must include a record of the mass and concentrations of the permit-limited pollutants that were measured. Reports shall include a record of all flow measurements taken at designated sampling locations. The Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that actual measurement is not feasible. Additional information shall be included as required by this Chapter or administrative rules.
 4. The Director may require self-monitoring by the discharger or, if requested by the discharger, may agree to have BES staff perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Section.
- B.** Final Compliance Report. Any discharger subject to Subsection 17.34.090 A. must submit to the Director a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow in gallons. The report must state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and pretreatment is necessary to bring the discharger into compliance. The discharger must submit reports.
1. Within 90 days following the date for final compliance with applicable pretreatment standards and requirements set forth in this Chapter, administrative rule, or an industrial wastewater discharge permit; or
 2. If the discharger is a new source discharger, within 30 days following commencement of the introduction of wastewater into the City sewer system by the discharger.
- C.** The discharger shall certify and sign all applications, reports, and reporting information in accordance with 40 CFR 403.12.L and 403.6(a)2(ii);
- D.** Confidential information.
1. Any records, reports or information obtained under this Chapter or administrative rule will be available to the public or any governmental

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agency without restriction, unless classified by the Director as confidential. In order to obtain a confidential classification on all or part of any records, reports or information submitted, the discharger must:

- a. Submit a written request to the Director identifying the material that is desired to be classified as confidential and;
 - b. Demonstrate to the satisfaction of the Director that records, reports or information or particular parts thereof, are exempt from disclosure pursuant to the Oregon Public Records Law.
 2. Effluent data, as defined in 40 CFR 2.302, submitted pursuant to this Chapter shall not be classified as confidential.
 3. Records, reports or information or parts thereof classified as confidential by the Director will not be released or made part of any public record or hearing unless such release is ordered by the District Attorney or a court of competent jurisdiction; provided, however, such confidential information will, when required by law or governmental regulation, and upon written request, be made available to state or federal agencies having jurisdiction, duties or responsibilities relating to this Chapter, the National Pollutant Discharge Elimination System or applicable Oregon laws and regulations.
- F.** Notification of Hazardous or Toxic Substance Discharge. An industrial user shall notify the Director in writing of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste or toxic substance. Such notification shall be in accordance with the requirements of rules adopted pursuant to this Chapter.
- G.** Notification of Violation. An industrial user shall report noncompliance with permit limits within 24 hours of becoming aware of the noncompliance. The industrial user shall repeat the sampling and analysis and submit results to the Director within 30 days of becoming aware of the violation.
- H.** Notification of Changed Discharge. All industrial users shall promptly notify the Director in advance of any substantial change in the volume or character of pollutants in their discharge.

17.34.110 Enforcement.

(Amended by Ordinance Nos. 165068, 180037 and 185397, effective July 6, 2012.) Dischargers that fail to comply with the requirements of this Chapter and rules adopted hereunder may be subject to enforcement actions by the Director.

A. Violations.

1. A violation shall have occurred when any requirement of this Chapter or rules adopted hereunder has not been met, or when any condition of a permit or agreement issued under the authority of this Chapter or rules adopted hereunder is not met.
2. Each day a violation occurs or continues shall be considered a separate violation.
3. For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation except as provided elsewhere in this Chapter or rules adopted hereunder.
4. Where a discharge causes interference or pass through, the discharger shall have an affirmative defense where it is demonstrated that:
 - a. It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and
 - b. The discharge was in compliance with properly developed local limits prior to and during the pass through or interference; or
 - c. If a local limit designed to prevent pass through or interference has not been developed for the pollutants that caused the pass through or interference, the discharger's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from prior discharge activity which was regularly in compliance with the requirements of this Chapter and rules adopted hereunder.

B. Significant Non-compliance. An industrial user shall be designated in significant non-compliance if one or more of the following exist:

1. Chronic violations of wastewater discharge limits. Chronic violations occur when at least 66 percent of all the measurements taken during a 6 month period exceed any pretreatment standard for the same pollutant parameter.
2. Technical Review Criteria (TRC) violations. TRC violations occur when at least 33 percent of all of the measurements for each pollutant parameter taken during a 6 month period equal or exceed the sum of any pretreatment standard multiplied by the applicable TRC (TRC = 1.4 for

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BOD, TSS, fats, oil, and grease; and 1.2 for all other pollutants except pH).

3. Any other violation of any pretreatment standard that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment.
5. Any discharge that has required the Director to use emergency authority to halt or prevent such a discharge.
6. Failure of an industrial user to meet a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
7. Failure of an industrial user to provide, within 30 days after the due date, required reports such as applications, baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
8. Failure of an industrial user to accurately report noncompliance.
9. Any other violation or group of violations that the Director of Environmental Services determines will adversely affect the operation or implementation of the local pretreatment program.

C. Enforcement Mechanisms. In enforcing any of the requirements of this Chapter or administrative rule, the Director may:

1. Take civil administrative actions, as set out in rules adopted under the authority of this Chapter;
2. Issue compliance orders;
3. Institute an action before the Code Hearings Officer;
4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
5. Take such other action as the Director deems appropriate.

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- D.** Civil Penalties. Violations of this Chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$5,000 per day per violation. All civil penalties shall be deposited with the City Treasurer. Failure to pay a civil penalty within 30 days following a final determination regarding the penalty is grounds for permit revocation or termination of the permittee's discharge. Penalties shall accrue interest and other charges until the penalty is paid in full.
- E.** Termination or prevention of a discharge/permit revocation.
- 1.** The Director may terminate or prevent a discharge into the City sewer system or revoke an industrial wastewater discharge permit if:
 - a.** The discharge or threatened discharge presents or may present an endangerment to the health or welfare of persons or the environment, or threatens to interfere with the operation of the City sewer system; or
 - b.** The permit to discharge into the City sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure; or
 - c.** The discharger violates any requirement of this Chapter or of an industrial wastewater discharge permit; or,
 - d.** Such action is directed by a court of competent jurisdiction.
 - 2.** Notice of termination or prevention of discharge or permit revocation shall be provided to the industrial wastewater discharger or posted on the subject property prior to terminating or preventing the discharge or revoking a permit.
 - a.** In situations that do not represent an imminent endangerment to health or the environment or an imminent threat of interference with the sewer system, the notice shall be in writing, shall contain the reasons for the termination or prevention of the discharge or permit revocation, the effective date, the duration, and the name, address and telephone number of a City contact, shall be signed by the Director, and shall be received at the business address of the discharger no less than 30 days prior to the effective date.
 - b.** In situations where there is an imminent endangerment to the health or welfare of persons or the environment or an imminent threat of interference with the operation of the sewer system, the

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Director may immediately terminate an existing discharge or prevent a new discharge from commencing or revoke a permit after providing informal notice to the discharger or after posting such notice on the subject property. Informal notice may be verbal or written and shall include the effective date and time and a brief description of the reason. Within 3 working days following the informal notice, a written formal notice as described in 17.34.110(d)(2)(A) shall be provided to the discharger.

3. The Director shall reinstate an industrial wastewater discharge permit which has been revoked or shall reinstate industrial wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of endangerment or interference.
- F.** Annual Publication. A list of Significant Industrial Users that are subject to the definition of significant noncompliance shall be published annually in the newspaper of general circulation published in Portland, summarizing the enforcement actions taken against industrial users during a prior twelve month period.
- G.** Cost recovery.
1. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with violations of this Chapter, including but not limited to the costs of administration, investigation, sampling and monitoring, legal or enforcement activities, damage to or contamination of the sanitary or combined sewer systems. BES may recover costs associated with remediation of a violation, contracts and health studies, and any fines and civil penalties assessed to the City that result from activities not in compliance with this Chapter or rules adopted hereunder. Liens may be imposed on the property or properties in accordance with the provisions of Chapter 22.06.
 2. All such costs shall be documented by the City and shall be served upon the discharger by certified or registered mail, return receipt requested. Such documentation shall itemize the costs the Director has determined are attributable to the violations.
 3. The costs are due and payable by the discharger upon receipt of the letter documenting such costs. All such costs shall be paid to the City Treasurer and credited to the Sewage Disposal Fund. Nonpayment or disputes regarding the amount shall be referred for appropriate action to the City

Attorney. The City Attorney may initiate appropriate action against the discharger to recover costs under this Section.

4. The Director may terminate a discharge for nonpayment of costs after 30 days notice to the discharger.

H. Appeal of enforcement action.

1. Upon receipt of a final determination of an enforcement action, discharger may appeal any of the following items to the Code Hearings Officer in accordance with procedures set out at Chapter 22.10 of the Portland City Code:

- a. The final determination of violation;
- b. The amount of civil penalty;
- c. The required remediation action
- d. The time frame for corrective action;
- e. Termination of service or permit.

2. The following are not appealable to the Code Hearings Office;

- a. Costs related to nuisance abatement, appeal processing or assessed environmental damage;

3. All appeals shall include a copy of all relevant documentation, including the Bureau's final determination letter, that is the subject of the appeal. Documentation shall state the basis for the appeal, and shall be filed with the Bureau of Environmental Services which shall initiate the Code Hearings Officer review.

- I. City not liable. Nothing in this Chapter shall be construed to confer liability on the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter.

17.34.115 Requests for Reconsideration.

(Added by Ordinance No. 185397, effective July 6, 2012.) A discharger may request the Director to reconsider any determination made under this Chapter if there is reason to believe that sufficient data or information is available to support a different determination. Any request for reconsideration shall be accompanied by the data and information the discharger used as a basis for the request. The Director may then revise

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the initial determination or retain the original determination based upon the submitted request.

17.34.120 Records Retention.

(Amended by Ordinance Nos. 172879 and 185397, effective July 6, 2012.) All dischargers subject to this Chapter shall retain and preserve for no less than 3 years all records, books, documents, memoranda, reports, correspondence and summaries relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. This period of retention may be extended per 40 CFR 493.12(o)(2) when requested by the Director, DEQ, or EPA during the course of any unresolved litigation regarding the discharger. The discharger shall retain and preserve all records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City until all enforcement activities have concluded and all appeals deadlines have expired.

17.34.130 Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.34.140 Severability.

If any provision, paragraph, word, or Section of this Chapter or rules adopted hereunder is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

17.34.150 Fees.

(Amended by Ordinance Nos. 173138, 173414, 181846 and 185397, effective July 6, 2012.)

- A.** The Director shall set annual fees by ordinance for all industrial wastewater discharge permits. The Director shall consider: process wastewater discharge flow; industrial user classification; permit status (new or renewed); self monitoring frequency; city monitoring frequency; regulatory history and any regulatory permits or special requirements.
- B.** Permit fees. Fees for each fiscal year are set July 1 and billed as soon after the following January 1 as is practical.
- C.** The Director shall also have authority to set fees for all non-routine, non-domestic batch discharges to the sewer system. Service fees for such discharges not otherwise addressed in an industrial wastewater discharge permit shall be calculated at a rate per occurrence, in addition to other applicable charges. The rate shall be established, annually, by general ordinance.

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17.34.160 Requests for Reconsideration.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

Chapter 17.35

SEPTAGE DISCHARGE

(Added by Ordinance No. 143978,
effective July 1, 1977.)

Sections:

17.35.010	Definitions.
17.35.020	Permit Required.
17.35.030	Septage Discharge Limitations.
17.35.040	Reserved.
17.35.050	Reserved.
17.35.060	Performance Guaranty.
17.35.070	Fee Schedule.
17.35.080	Collection and Billing.
17.35.090	Revocation/Amendment of Permit.
17.35.110	Enforcement.

17.35.010 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) As used in this Chapter the following definitions apply:

- A.** “Columbia Boulevard Wastewater Treatment Plant (CBWTP)” means the City of Portland’s wastewater treatment plant located at 5001 N. Columbia Boulevard, Portland, Oregon.
- B.** “Director” means the Director of the Bureau of Environmental Services or the Director’s designee.
- C.** “Holding tank” means a tanks with no drain field which is required to be pumped out on a regular basis.
- D.** “Operator in charge” means the operator in charge, hereafter referred to as “operator,” is the designated operator on duty at the Columbia Boulevard Wastewater Treatment Plant or other designated location who supervises and directs any discharge of septage.
- E.** “Septage” means domestic wastes in a tank or container such as chemical toilets.
- F.** “Tri-County Area” means the area within Multnomah, Clackamas and Washington Counties.

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17.35.020 Permits Required.

(Amended by Ordinance Nos. 166674, 182760 and 185397, effective July 6, 2012.) Only those persons possessing a valid septage discharge permit issued from the City of Portland will be allowed to discharge septage at the Columbia Boulevard Wastewater Treatment Plant (CBWTP).

- A.** Permits shall authorize discharges for one year, unless a shorter time frame is authorized by the Director.
- B.** The City shall issue permits for the discharge of septage at CBWTP after receipt of the following:
 - 1.** A Septage Discharge Permit Application form;
 - 2.** A copy of a valid sewage disposal service license issued by the DEQ;
 - 3.** A current DEQ Sewage Pumping Equipment Description/Inspection form for each vehicle identified on the permit;
 - 4.** A performance guaranty as described in 17.35.060 of this Chapter;
 - 5.** A copy of insurance coverage at or above those levels required by the Oregon Public Utility Commission;
 - 6.** Effective July 1, 1994, a certificate of completion, or the ability to receive such certification within 30 days of permit approval, by applicant personnel at the City of Portland's "Septage Hauler Training Class." Personnel of an approved septage hauler shall attend the City's Septage Hauler Training Class. The class will inform haulers about the City's Septage Receiving Program and the operational process at CBWTP. Certification renewals may be requested on an annual basis and shall be required upon request of the Director or when permittee personnel changes occur.
 - 7.** The City shall impose appropriate conditions in permits to ensure compliance with requirements of this Chapter.
- C.** No provision of this Section shall be construed to create any right to the disposition of septage at a City facility inconsistent with the public interest of the City.

17.35.030 Septage Discharge Limitations.

(Amended by Ordinance Nos. 166674 and 185397, effective July 6, 2012.) The City will accept discharge of septage at the CBWTP that originates within the Tri-County area and is subject to the provisions of this Chapter.

- A. Discharge of process waste from commercial and industrial locations is prohibited.
- B. Unauthorized discharge of septage into the sewer system within the jurisdiction of the City or the Tri-County area is prohibited.
- C. The City will have full authority to refuse a load, limit the amount of discharge and/or establish necessary restrictions on discharge under the following conditions:
 - 1. Unacceptable acidic or alkaline strength or corrosive properties;
 - 2. Septage is from a non-approved source;
 - 3. Failure to supply complete, accurate and verifiable septage information;
 - 4. Operator observed inconsistencies between certified contents and actual contents;
 - 5. Operational or capacity limitations at CBWTP. Loads will be rejected during wet weather events.

17.35.040 Reserved.

17.35.050 Reserved.

17.35.060 Performance Guaranty.

(Amended by Ordinance No. 166674, effective June 23, 1993.) Each applicant, except governmental agencies shall post a performance guaranty in a form including but not limited to a surety bond, penal bond, performance bond, irrevocable letter of credit, pledge of assets, or other form which shall be approved by the City Attorney. The amount will be determined by the conditions of the permit and the number and capacity of the applicant's vehicles. Minimum coverage shall be \$10,000. All changes in personnel and equipment shall be reported to the City within 30 days. The value of the performance guaranty shall be forfeited to the City under any of the following conditions:

- A. The discharge of septage in violation of 17.35.030;

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- B.** The discharge of septage at unauthorized locations in the Tri-County area (or the City of Portland);
- C.** Effective July 1, 1994, failure to make timely payment, pursuant to 17.35.090 B, of charges billed under this Chapter. (Forfeiture of guaranty up to amount of overdue charges only, after notice of intent to demand payment from guarantor.)

17.35.070 Fee Schedule.

(Amended by Ordinance Nos. 156500, 160886, 162109, 165136, 166674, 167692, 168857, 170190, 171224, 172288, 173414, 175620, 176524, 177530, 178449, 179274, 180189, 181006 and 181846, effective July 1, 2008.)

- A.** Discharge permit holders are subject to the following septage discharge fees:
 - 1.** Annual Discharge Permit Fee. Fees are to be paid on an annual basis at time of permit application.
 - 2.** Discharge Rates. Each delivery received at the plant is subject to discharge rates, which will be applied to full tank capacity of the delivery vehicle. The plant may accept partial loads on a pre-approved basis. Measurement disputes between septage haulers and City personnel will be resolved by a process established by the Director.
 - 3.** After-Hours Fee. Deliveries received at the plant outside of normal business hours are subject to an after-hours fee.
- B.** Septage discharge fees and rates are adopted, annually, by general ordinance to establish sewer and drainage rates and charges.

17.35.080 Collection and Billing.

(Amended by Ordinance Nos. 166674 and 181483, effective January 18, 2008.) The operator is directed to provide one copy of the load certificate to the permittee, retain two copies of each load certificate executed by permittee, and to convey one copy of each load certificate to the office of the City as may be required by the Office of Management and Finance.

The City shall mail a monthly statement of account to each permittee. Failure to pay the amount shown within 30 days of the date of billing shall result in imposition of interest fees, as named in Title 5, Section 5.48.040, on the amount past due.

17.35.090 Revocation/Amendment of Permit.

(Amended by Ordinance No. 166674, effective June 23, 1993.) All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

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- A.** Failure to accurately certify the source of a load of septage prior to discharge
- B.** Failure to pay all charges for discharge within 60 days of billing by the City.
- C.** Any act that is named as a cause for forfeiture of the performance guaranty, as outlined in Section 17.35.060.

Septage permits shall be amended for the following reasons:

- 1.** A change occurs in a permittee's operations that affect the conditions of this Chapter.
- 2.** As required by the applicable State or Federal laws or regulations.

17.35.100 Protection of the Public Interest.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.35.110 Enforcement.

(Added by Ordinance No. 166674, effective June 23, 1993.)

- A.** Violation of any of the requirements of this Chapter may result in enforcement by the Director.
- B.** Enforcement mechanisms. In enforcing the requirements of this Chapter, the Director may:
 - 1.** Issue compliance orders.
 - 2.** Institute an action before the Code Hearings Officer.
 - 3.** Cause an appropriate action to be instituted in a court of competent jurisdiction.
 - 4.** Take such other action as the Director deems appropriate.
 - 5.** Appeal of final determination. Upon receipt of a final determination, a permittee may appeal the determination to the code Hearings Officer in accordance with the procedures set out in Chapter 22.10 of the Portland City Code; provided that such an appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.

Chapter 17.36

SEWER USER CHARGES

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

Sections:

- 17.36.010 Definitions.
- 17.36.040 Sewer System Connection Charges.
- 17.36.050 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.
- 17.36.060 Agreements with Governmental Agencies for Sanitary Sewer and Stormwater Management Services.
- 17.36.070 User Charges.
- 17.36.080 Special Provisions.
- 17.36.090 Meters.
- 17.36.100 Clean River Rewards.
- 17.36.110 Extra-Strength Wastewater Charges.
- 17.36.120 Other Charges.
- 17.36.130 Computing and Billing.
- 17.36.140 Certain Installations Unlawful.
- 17.36.150 Identification of Inspectors.
- 17.36.160 Collection.
- 17.36.170 Deposit and Application.
- 17.36.180 Adjustment of Bills.
- 17.36.190 Appeal.

17.36.010 Definitions.

(Amended by Ordinance No. 184989, effective December 9, 2011.) For the purpose of this Chapter, the following definitions shall apply:

- A.** "Available Sewer" is a collector, trunk, or other major public sanitary sewer located in a dedicated street or easement adjacent to, or within a property, and designed or intended to provide direct service to the property. For the purposes of this Chapter, a sewer shall not be considered available to a property if an extension of the public sewer is required before a branch can be constructed to the property.

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- B.** "Biochemical Oxygen Demand (BOD)" is the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of five days at a temperature of 20 Celsius (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register). This definition applies to the phrase and its abbreviation.
- C.** "Branch" is a public sewer service lateral as defined in Chapter 17.32 of this Code.
- D.** "Branch Charge" is a connection charge that reimburses the City for the costs of designing and constructing public sewer service laterals.
- E.** "Brownfield" is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
- F.** "Bureau" is the Bureau of Environmental Services unless otherwise stated in this Chapter.
- G.** "Composite sample" is a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the public sewer system. A composite for one day must consist of a pool of samples, collected over the period of expected discharge during the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.
- H.** "Connection Charge" is a charge that the City collects at/or prior to the time a property connects to the public sewer system. Connection charges may include a line charge, branch charge, sanitary sewer system development charge and stormwater system development charge. A property may be subject to one or more of these charges depending on the connections made and the means used to provide public sewer and stormwater management services to the property.
- I.** "Director" is the Director of the Bureau of Environmental Services or the Director's designated representative.
- J.** "Dwelling unit" is any housing unit with sanitary and kitchen facilities either designed or used to accommodate one or more residents, including detached residences, multiple housing units, floating homes, mobile homes and mobile home spaces. This does not include commercial (transient) housing units such as hotel and motel units; overnight trailer or recreational vehicle spaces; or housing units in institutional care facilities. A single dwelling unit shall be any dwelling

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unit, as defined above, in a building containing no other dwelling units. This includes units in planned developments, and care facilities classed as a single-family unit by the City.

- K.** “Extra Strength Charge” is the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Title and general ordinance.
- L.** “Frontage” is the length of public right-of-way adjacent to a property, measured in feet.
- M.** “Groundwater” is subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater. Groundwater related discharges include, but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction or property management dewatering activities.
- N.** “Impervious Area” is the area of a property which does not allow rainwater to percolate naturally into the ground. Examples include a roof and paved area, such as a driveway, parking area or walkway. The City classifies as impervious areas for billing purposes set forth in this Chapter areas of property that are covered by porous pavement, eco-roofs, rain gardens or other types of impervious area replacement techniques used for stormwater management. Impervious areas for billing purposes do not include public rights-of-way, outdoor recreation areas that are available to the general public without condition or restriction, and areas covered by compacted soils and compacted gravels.
- O.** “ITE Manual” is the manual entitled “An Institute of Transportation Engineers Informational Report – Trip Generation”, used by the City to determine transportation system development charges.
- P.** “Line Charge” is a connection charge that reimburses the City for the costs of designing and constructing sanitary sewer lines that serve connecting properties.
- Q.** "Multiple dwelling unit" is any dwelling unit, as defined above, in a building containing more than one dwelling unit. This includes the dwelling units in commercial buildings containing more than one dwelling unit, houseboats, mobile homes and mobile home spaces where more than one unit exists.
- R.** “Net New Impervious Area” is the greater of zero and the difference between existing impervious area on a property, and any increase in impervious area that results from a proposed use(s) of the property.

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- S.** “Net New Vehicular Trips” is the greater of zero and the difference between the vehicular trips generated by the existing use of a property, and any increased number of the vehicular trips generated from a proposed use(s) of the property.
- T.** "Perched Groundwater" is a zone of saturation in a formation that is discontinuous from the water table and the unsaturated zones surrounding this formation. The formation exists as a discrete saturated zone that may be ephemeral (in direct response to precipitation in the immediate vicinity) or recharged by percolation from nearby surface water or other perched water zones.
- U.** “Public Sewer System” is defined as provided in Chapter 17.32 of this Code.
- V.** “Ratepayer” is a person who has the right to possession of a property, and who causes or permits the discharge of sanitary sewage from property in their possession into the public sewer system, or whose use of property directly or indirectly benefits from stormwater management services provided by the City.
- W.** “Reimbursable City Stormwater Facilities” are stormwater management facilities that are financed by the City.
- X.** "Rolling Average" is the average of the 10 most recent monthly averages of valid city- and/or self-monitoring events for the purpose of calculating an extra-strength sewage charge rate unless another period is approved by the Director.
- Y.** “Sanitary Sewage” includes, but is not limited to, domestic wastewater, industrial/commercial process wastewater or contaminated stormwater which is discharged to the public sewer system by permit or approval of the Director.
- Z.** “Sanitary System Development Charge” is a connection charge for new or increased demand of the public sewer system. The charge reimburses the City for an equitable portion of the costs of major sewer facilities, such as wastewater treatment facilities, pump stations and interceptor sewers.
- AA.** “Slugload” is any discharge that is non-routine or episodic in nature, such as accidental spills, non-customary batch discharges or other non-standard discharges.
- BB.** “Seed”. A population of microorganisms capable of oxidizing biodegradable organic matter that is added to a wastewater sample as part of the analysis of biochemical oxygen demand (BOD). Approved seed shall be prepared primary effluent from the City’s Columbia Boulevard Waste Water Treatment Plant.

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- CC.** “Stormwater Management Facilities” include, but are not limited to, facilities that collect, convey, detain, retain, treat or dispose of stormwater runoff.
- DD.** “Stormwater Management Services Rate” is the rate used for calculating user charges for stormwater management services. The rate may also be referred to as the “impervious area” rate or “drainage service charge” or the “drainage/stormwater management user service charge”.
- EE.** “Stormwater Management Services” are services and actions required to collect, convey, detain, retain, treat or dispose of stormwater runoff, such as services that manage stormwater runoff from public streets, mitigate flooding, prevent erosion, improve water quality of stormwater runoff, collect and convey stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigate impacts to natural habitats caused by stormwater runoff, and protect properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of-way.
- FF.** “Stormwater System Development Charge” is a connection charge that reimburses the City for the design and construction of stormwater management facilities. The charge ensures that new and expanded uses of property pay an equitable portion of the costs of public stormwater management facilities such as collection and conveyance facilities, detention and disposal facilities, and water pollution reduction facilities.
- GG.** "Temporary Connection". A connection to the sanitary sewer system is deemed temporary if the duration of the connection is less than three years and connection and disconnection occur only once. However, for purposes of this definition and determining the applicability of sewer system connection charges, connections to the sanitary sewer system made for the purpose of servicing an environmental remediation activity of less than three years will not be considered a temporary connection unless approved by the Director. In granting a temporary connection the Director shall, at a minimum, consider the nature of the remediation site and type of City sewer(s) available for connection.
- HH.** "Temporary Structure". A structure is deemed temporary if it is a separate and distinct entity from all other structures and it is created and removed in its entirety, including impervious area associated with the structure, within a continuous period of three years or less.
- II.** "Total Suspended Solids (TSS)" is the total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as

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published in the Federal Register). This definition applies to the phrase and its abbreviation.

- JJ.** “Transportation SDC Study” is the methodology report entitled “Update of Transportation System Development Charges Rate Study”, most recently adopted by Council.
- KK.** “User Charge” is a charge paid by a ratepayer for sanitary or stormwater management services.
- LL.** “Willamette River/Portland Harbor Superfund” is a program to remove pesticides and petroleum from sediments along a nine-mile segment of the Lower Willamette River. The City’s portion of the program costs are paid from dedicated user charges that bear the name of the program.

17.36.020 Administrative Rules, Procedures and Forms.
(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.36.040 Sewer System Connection Charges.

(Amended by Ordinance No. 182389, effective January 2, 2009.) The following charges are for connection and use of the public sewer and stormwater management services under City control, from properties either inside or outside the City. These are calculated based on rates established, annually, by general ordinance, and are collected upon issuance of a building permit, or where a building permit is not required, upon issuance of a sewer connection permit.

A. Sewer System Connection Charges.

1. Sanitary System Development Charge

- a.** The methodology for calculating the charge is set forth in the document Sanitary and Stormwater System Development Charge Methodology, adopted annually by general ordinance.
- b.** A person desiring to connect a building property to a sanitary or combined sewer, or to increase the sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer, or to increase flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer, must pay sanitary system development charges.
- c.** The charge is calculated based on the number of Equivalent Dwelling Units (EDUs). EDUs for nonresidential uses will be

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calculated from Plumbing Fixture Units (PFUs), taken from the Oregon Plumbing Specialty Code in effect at the time of the permit application. EDUs for groundwater or other permitted discharges to sanitary or combined sewer are calculated based on estimated discharge volume, and are subject to review as described in this Chapter.

- d.** Industrial wastewater. Persons with industrial wastewater discharges are subject to review of sewer usage within two years of occupancy. EDUs are calculated from the highest six-month average of metered usage over that period. The user of record is responsible for EDUs in excess of those paid at the issuance of the permit.
- e.** Credit for prior sewer connection. For buildings on sites that were previously connected to the sewer system or that had buildings previously connected to a sanitary sewer, full credit for sanitary system development charges is allowed for each equivalent dwelling unit purchased under this Subsection that existed prior to demolition or disconnection.
- f.** Credit for prior sewer user charge payments. When a person desires to connect a building to a sanitary sewer, where sanitary sewer user charges have been paid for the building for several years, a credit of \$21 per equivalent dwelling unit for each year of such prior user charge payments from 1949 to 1991 is applied toward the sanitary system development charge. No credit is allowed for buildings that were demolished or disconnected prior to July 1, 1971.
- g.** Temporary structures and temporary connections are not subject to the sanitary system development charge. However sanitary system development charges, including penalties and interest charges, become due and payable from structures or users that originally were exempted from sanitary system development charges as a temporary structures or temporary connections, but are not removed within three years as provided in the definition of temporary structures and temporary connections. Temporary structures and temporary connections are not exempt from paying sewer user fees, including extra strength charges.
- h.** Prepayment. A person may elect to pre-pay sanitary system development charges by providing a letter of intent to the Bureau of Environmental Services, which includes the parcel description

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and address if applicable, and the estimated number of EDUs (equivalent dwelling units) to be paid. The Bureau may grant a refund at any time for excess EDU's paid (refunds will be based on rates in effect at the time of prepayment and without interest), and charge for any outstanding EDU's (calculated by the Bureau of Environmental Services) at the time of the building permit, at the rate in effect at that time. After September 15, 1988, the Bureau will not accept prepayment for a connection to be performed more than five years from the date of prepayment.

2. Line Charge.

- a.** The Bureau collects a line charge prior to the issuance of a permit to connect a property to the public sewer system.
- b.** The Bureau collects the charge when the property to be connected has not been assessed for direct service or its equivalent.
- c.** The Bureau calculates the line charge as follows:
 - (1)** Residential Property. The charge is based on the square footage of the property. For properties zoned residential and used predominately for residential purposes, the square footage used for calculating the line charge is limited to the lot area within 100 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line is considered as continuing 100 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum assumed lot size of 1,200 square feet. When an adjacent, developed lot, as defined in Title 33 of this Code, is under same ownership and used in conjunction with a neighboring, developed lot that is connecting to the sewer, the adjacent lot is charged a line charge for its frontage as described above. This condition includes but is not limited to improved parking lots, and lots with garages or landscaping.
 - (2)** Non-Residential Property. For non-residential property, the square footage used for calculating the line charge is limited to the lot area within 300 feet of rights of way or easement where sewer has been constructed or is planned for sewer construction. Such street or easement line is

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considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum lot size of 3,600 square feet.

- d. When a sewer is constructed that can not provide gravity service, the line charge is reduced by 50% if the property has gravity service to the first floor only and must install a pump for the basement and 75% of the line charge is reduced if no gravity service is available for the first floor and the property must install a pump. The adjustment may not exceed the costs associated with the installation of a pump system. The ratepayer may appeal this determination to the Director if the pump costs exceed the line charge adjustment.
3. Branch charge.
 - a. The Bureau collects a branch charge prior to the issuance of a permit to connect a property to the public sewer system.
 - b. The Bureau collects the charge for branches that the City has extended from the public sewer during or after its construction, and the property has not been assessed for the branch or its equivalent.
 - c. The Bureau collects additional charges for additional branches that have been requested by the user representative at the time of sewer design or construction but not used at the time of initial connection. The charges are collected prior to subsequent connection to the public sewer system.
4. Bond in lieu of payment. When the equivalent dwelling units for a proposed connection (or change) cannot be determined in advance, or when the user or applicant does not agree with the Director's determination, but only when the occupancy is not adequately defined by the City, the Director may accept a cash or surety bond in an amount determined by him or her, and posted by the owner in lieu of immediate payment of the charge. A reasonable time after the connection (or change) is made, but not more than 2-1/2 years, the Director, using water consumption records or other evidence, determines the number of equivalent dwelling units and the amount of the system development charges payable. Upon notice, the user must pay the system development charges required. If the user does not pay the charges within 60 days, the bond is forfeited upon certificate by the Director, and approval by the Commissioner-in-Charge.

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- 5.** Sampling manhole charge. When a property is subject to an extra strength charge, as described in this Chapter of the Code and as determined by the Director, at the user's request the City may install a sampling manhole on the branch, providing the user agrees to pay all direct and indirect costs of installing the manhole.
- 6.** Deferral of connection charges. Users who qualify to defer sewer assessment charges but who want to connect to the system can defer payment of connection charges until such date as the Director may specify as authorized by ordinance. The charge in effect at the time of connection is applied at time of payment. Deferred connection charges are delinquent when not paid after a period of 90 days from the date due and bear interest and penalties as set forth in this Chapter. Users may convert the deferral to an installment payment loan. The Director may establish rules, procedures and forms to govern the administration of the deferral program.

B. Stormwater System Development Charge.

- 1.** The stormwater system development charge consists of two parts: an on-site charge, reflecting use of public facilities handling stormwater flows from individual properties; and an off-site charge, reflecting use of system facilities handling stormwater flows from rights of way. The following charges are calculated based on rates established, annually, by general ordinance:
 - a.** The on-site charge is calculated by multiplying the net new impervious area by a rate per thousand square feet of impervious area. In the case of groundwater flows directed into stormwater facilities, the charge is calculated based on the amount of impervious area necessary to produce an equivalent flow given average rainfall.
 - b.** The off-site charge is calculated in two parts: local access, and use of arterial streets.
 - (1)** The local access portion of the off-site charge is calculated by multiplying the length of the property's frontage by a frontage rate per foot. For properties on which there is existing development, and for which a stormwater system development charge has previously been paid, the local access portion is assumed to have been paid.

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- (2)** The arterials portion of the off-site charge is calculated by multiplying net new vehicular trips by a rate per vehicular trip. Vehicular trips for a particular development are determined by the Transportation SDC Study, the ITE Manual, or an alternative study acceptable to the Bureau of Transportation for purposes of the transportation system development charge.
- 2.** Credits. Credits are granted against the on-site portion of the stormwater system development charge in one of the following two cases:

 - a.** Credits of up to 100% of the on-site portion of the stormwater system development charge are granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers, or to the Columbia Slough, provided that the discharge for which the credit is sought does not pass through reimbursable City stormwater facilities, and that the discharge meets all applicable water quality standards. Those applying for this credit must provide adequate documentation to demonstrate that the stormwater for which the credit is being sought flows from the site to those receiving bodies without passing through reimbursable City stormwater facilities. Development using stormwater facilities built under a public works permit, which convey stormwater runoff directly to one of the receiving bodies listed above without passing through other City stormwater facilities, are eligible for the up to 100% credit against the onsite charge.
 - b.** A 100% credit is granted for areas draining to facilities providing effective on-site retention for a 100 year storm event with a safety factor of two, defined as a rainfall intensity of 8.28" per hour per square foot of impervious area. Those applying for this credit must provide adequate documentation to demonstrate this additional retention capacity, including testing of infiltration facilities, and that on-site flows are directed to these facilities.
 - c.** No credits are granted against the off-site portion of the stormwater system development charge.
- 3.** The stormwater system development charge is collected upon issuance of a building or connection permit. If desired, the applicant may pay these charges directly to the Bureau of Environmental Services after applying for, but before receiving a building permit. When the new building takes the place of a structure or impervious area that has existed in the last seven years, or does not add more than 500 square feet, or is a temporary

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structure, no development charge will apply. However, development charges, including penalties and interest charges, become due and payable from structures that originally were exempted from development charges as a temporary structure but are not removed within three years as provided in the definition of temporary structures. Temporary structures are not exempt from paying draining service charges.

17.36.050 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.

(Replaced by Ordinance No. 183448, effective July 1, 2010.) The purpose of this Section is to reduce the costs of developing permanent affordable housing by waiving sanitary and stormwater system development charges for qualified affordable housing developments. This Section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City. Affordable housing is exempt from sanitary and stormwater system development charges pursuant to Section 30.01.095.

17.36.060 Agreements with Governmental Agencies for Sanitary Sewer and Stormwater Management Services.

The Director is authorized to enter into agreements for and on behalf of the City with any special service district or governmental agency authorized to contract on behalf of property outside the City but within the district or agency. The agreements may provide for payments to the City by the districts or agency, in lieu of payments by individual property owners or occupants. Bonds or other securities may be waived by the Director in agreements provided for in this Section. All other provisions of this Title applicable to sewer system connection charges, user charges or to agreements with individual property owners remain in full force and effect.

17.36.070 User Charges.

Sewer user service charges, as authorized by the Charter, are established and made effective as follows:

A. Sanitary Sewer Services. Except as otherwise provided by this Title, the City calculates and collects user charges for sanitary sewer services from ratepayers who cause or permit the discharge of sanitary sewage from a property in their possession into the public sewer system. The charges begin upon connection to the public sewer system. Charges for sanitary sewer services may include sanitary sewer volume charges, account service charges and penalties for non-payment or late-payment of sewer charges and other charges as provided for in this Chapter. The City calculates the following charges based on rates established, annually, by general ordinance:

1. Dwelling units. Charges for dwelling units are based on the volume of sewage discharge to the sanitary sewer system. The Bureau may elect to

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use the water meter consumption as the calculation for the sanitary sewage discharge. To avoid including irrigation water usage in this calculation, the Bureau will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate shall be made based on the ratepayer class of characteristics as determined by the Director.

2. Commercial, industrial and all occupancies other than residential. The City calculates charges for commercial, industrial and all occupancies other than residential based on the amount of incoming water volume as measured by the City water meter or information from the water district serving the property or by a Bureau approved meter that measures actual discharge volume. Discharge meters must meet the current standards for such meters as described by the Director. To establish reduced charges or credit for water not subject to sewer charges, ratepayers must comply with the requirements of this Chapter. If a sewer customer does not have a City meter or water district meter measuring the supply of water to the property, the private water supply must be metered in accordance with this Chapter. In areas served by separated storm and sanitary sewer systems, the City may accept the discharge of contaminated stormwater into the sanitary sewer. The discharge volumes will be based upon the impervious area producing the contaminated stormwater and the average rainfall or a discharge meter. The discharge will be charged based on sanitary sewer volume rates.
3. Combined dwelling units and other. Where dwelling units and other occupancies are combined on the same water supply, the City calculates charges for sanitary sewer service in the same manner as those for commercial, industrial and all occupancies other than residential.

B. Stormwater Management Services. Except as otherwise provided by this Title, the City calculates and collects user charges for stormwater management services based on rates established, annually by general ordinance. Ratepayers who receive a direct or indirect benefit from City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the user of stormwater management services and responsible for the user charge. If the property is not subject to other City utility charges, the Director will determine the ratepayer responsible for the user charge.

1. Billing Components. The user charge consists of the following components:
 - a. Stormwater On-Site. The user charge rate for the on-site component is 35% of the stormwater management services rate.

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- b. Stormwater Off-Site. The user charge rate for the off-site component is 65% of the stormwater management services rate.
 2. Basis for charge. User charges are calculated based on the user's proportionate share of stormwater management services. For administrative purposes, the user's proportionate share is assumed to be perfectly correlated with the amount of impervious area on the user's site. Unless the Bureau measures actual site characteristics, impervious area is assumed to be the average impervious area for the user's class as shown in the most recent rate study.
 3. Dwelling units. The City uses the following class averages of impervious areas for calculating user charges for dwelling units located on a single property or tax lot:
 - a. One and Two Dwelling Units - 2,400 square feet
 - b. Three Dwelling Units - 3,000 square feet
 - c. Four Dwelling Units - 4,000 square feet
 - d. Five or More Dwelling Units – Measured impervious area
 4. Properties other than dwelling units. The City calculates the ratepayer's proportionate share of stormwater drainage system services based on the amount of impervious area on the site.
 5. Drainage Districts. The City calculates and collects payments for stormwater management services from Multnomah Drainage District No. 1, Peninsula Drainage District No. 1, and Peninsula Drainage District No. 2 under an Intergovernmental Agreement. The district charges are made in lieu of user charges for properties located within the boundaries of the districts.
- C. Willamette River/Portland Harbor Superfund. The City calculates and collects user charges for the Willamette River/Portland Harbor Superfund Program based on rates established, annually, by general ordinance. Ratepayers who receive a direct or indirect benefit from the public sewer system and City stormwater management services are subject to the user charge. The ratepayer identified on the City utility billing account is assumed to be the beneficiary of the program and responsible for the user charge. If the property is not subject to other City utility charges, the Director determines the ratepayer responsible for the user charge.

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1. Billing Components. The user charge appears as a single item on the City utility bill, and is the sum of two rate calculations:
 - a. Sanitary Volume. This portion of the user charge is calculated in the same manner as the user charge for sanitary sewer services, based on a Willamette River/Portland Harbor Superfund Sanitary Volume rate.
 - b. Impervious Area. This portion of the user charge is calculated in the same manner as the user charge for stormwater management services, based a Willamette River/Portland Harbor Superfund Impervious Area rate.

D. Service outside the City:

1. The City charges for the use of sanitary sewer and stormwater management services from properties outside the City based on rates established, annually, by general ordinance.
2. Business, industrial, commercial, and all other non-residential services outside the City:
 - a. The Director may require, and is authorized to enter into agreements for and on behalf of the City, permitting connection and providing sanitary sewer or stormwater management services to commercial and industrial properties outside the City when he/she finds such service feasible and appropriate. The Director may conduct such investigations as deemed necessary in connection with the application of any non-residential occupancy to connect with the public sewer system or stormwater management facility. The Director must approve the design and location of all sewers or stormwater management facilities prior to their connection. The City requires street opening permits from the appropriate authority in the jurisdiction wherein the sanitary sewer or stormwater management facility is located.
 - b. The Director may require the owner, tenant or lease holder to post a cash or surety bond in the sum of not over \$4,000, as one of the conditions for entering into an agreement allowing connection from commercial or industrial property outside the City. The bond shall be deposited with the City Treasurer and shall be declared forfeited upon certificate by the Director, approved by the Commissioner-in-Charge, in case of delinquency of more than 30 days in the payment of the sewer user service charge.

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3. Determination of which property is outside the City. The Director determines whether any residential or business, industrial, commercial, institutional or other property is inside or outside of the City limits. For purposes of this Section, the property is outside of the City limits where 66.7 percent or more of the assessed valuation of the property is recorded in the records of the County Assessor as lying beyond the City limits.

17.36.080 Special Provisions.

- A. Establishing reduced charges or credit for water not subject to sewer user charges. Prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter for the purpose of obtaining reduced sewer charges, the owner must submit a written credit request for approval by the Director. A request for such credit must include a mechanical plan showing the proposed meter location, access route to the meter, the water supply or source, the cooling or other water using equipment, and the discharge point. At no time may a reduced charge or credit be given retroactively (prior to the date of approval); no reduced sewer rate or charge may be given until the Director has approved the request and the meter location plans and installation. Any meter or method, used for calculation of a reduced rate or credit, is subject to the administrative or special meter charge for each such meter or method as established, annually, by general ordinance. All meters used to obtain a reduced sewer user charge must conform to the provisions of this Chapter.
 1. Clean water to sanitary or combined sewer charges. The Bureau calculates these charges based on the commercial sewer volume rate when uncontaminated groundwater or other uncontaminated water, such as that used for refrigerating or cooling purposes or condensed from steam and put to no other use, is discharged to a public sanitary or combined sewer under City control.
 2. Clean water to storm only charges. The Bureau calculates these charges based on the commercial clean water to storm sewer volume rate when uncontaminated groundwater or other uncontaminated water, such as that used for refrigerating or cooling purposes or condensed from steam and put to no other use, is discharged to a public separated storm sewer and not connected to a combined sanitary system under City control.
 3. Discharges from publicly owned drinking fountains. The Bureau calculates these charges based on the drinking fountain volume rate and the volume of water that is discharged from publicly owned drinking fountains to a sanitary or combined sewer. Discharges from publicly

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owned drinking fountains to a public separated storm sewer are charged a volume rate for commercial clean water discharged to a storm sewer.

4. Water not subject to sewer charges. The Bureau may exempt from user charges water that is used in a manufactured product such as ice, canned goods or beverages; or for water lost by evaporation or used in irrigation on a written request for such credit. After approval by the Director, the owner or other person in control of the premises, must install meters or provide other means of determining the quantity of water so used to the satisfaction of the Bureau.
5. When clean water discharged to a public sewer system is not from a separate metered supply, the owner or other person in control of the premises, after approval by the Director, must install meters or provide other means of determining the quantity of water so used to the satisfaction of the Bureau.

B. Conditions for revoking reduced charges or credits.

1. Failure to repair a defective meter within 30 days after notice by the City that the meter is defective revokes the applicability of Paragraphs 1. and 2. of Subsection A. above. In such cases, user charges, at the regular rate, must be paid on the full amount of water passing through the supply meter during these 30 days. The regular sewer rate continues in effect until such time as the owner or person in charge of the premises formally notifies the Director that the meter has been repaired. At no time may a reduced charge or credit be allowed retroactively, or for a period in which the meter is defective.
2. Failure to report quantities of water subject to reduced charge or credit for two consecutive months revokes the applicability of Paragraphs 1. and 2. of Subsection A above. In such cases, user charges, at the regular rate, must be paid on the full amount of water passing through the supply meter during these 60 days. The regular sewer rate continues in effect until such time as the owner or person in charge of the premises formally notifies the Director that the reports will continue. At no time may a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.

C. Meters required. Where private meters are used to determine the amount of water reaching the sewer, the owner or person in charge of the premises must give City employees the right of access at all reasonable times for the purpose of reading, inspecting or testing the meter. The owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and must comply with all

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provisions in this Title. Failure of the owner, his lessee, or others acting under him to maintain the meter in good working order constitutes a violation of this Chapter and during the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed on the basis of three times the normal water usage or in such an amount as deemed proper by the Director.

1. In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or forms a partial supply in addition to that furnished by the water system of the City, the private supply must be metered and any meters so used must conform to the provisions of this Chapter. Residential properties may elect to be billed based on the characteristics of this class of user as determined by the Director.
 2. Discharge meters. Where there are several water supplies or various uses of water that would be eligible for credit or charges under the various Sections of this Chapter, upon approval of the Director, a discharge meter may be installed in lieu of several submeters or other measurement methodology.
- D.** Estimating wastewater discharges. User charges as provided in this Chapter are applicable to all wastewater discharges to the City sewer system regardless of the source. In unusual circumstances where the wastewater is not from a fixed location, such as ships, barges, houseboats and other movable facilities or dwelling units, a method of determining the volume provided by the user may be used if approved by the Director. Otherwise, the Director estimates the volume of water to which user charges apply and this determination is final. The rate of charge is the same as though the water originated from a local, public or private source.
- E.** Where the user charges established by Code or general ordinance, are inappropriate for the service provided, the Director may establish the appropriate charges based on the unit costs developed in the most recent rate study. The new charge so established must be filed with the Council Clerk and may be reviewed by the Council on the motion of any member of the Council.

17.36.090 Meters.

Meters that are used under the provisions of this Chapter must conform to the conditions set forth in this Section, and must be approved by the Director as to type, maintenance, calibration schedule, size and location before installation.

- A.** All meters must register in cubic feet.

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- B.** Meters installed on water systems supplied from private or public sources and used to measure cooling, irrigation, evaporation or product water for the purpose of obtaining reduced sewer charges must be connected in such a manner as to register only that portion of the water supply used for that purpose, and not used for sanitary purposes.
- C.** Meters placed below the ground or pavement surface must have the top of the meter not more than 8 inches below the surface and must be enclosed in a standard water meter box and cover as used by the Portland Water Bureau. Meters located above the ground or floor level must not be more than 3-1/2 feet above the ground or floor level.
- D.** All meters must be located in an area that is accessible at all times; the meter must be so located that no locked door or gate shall be encountered by a City employee when inspecting the meter. Meters must not be located adjacent to dangerous machinery or structural hazard; the extent of such hazards shall be determined by the Director.
- E.** For purposes of calculating user charges, owners of meters must implement a program to ensure meter accuracy. The program should consider the manufacturer's periodic maintenance and calibration requirements. All maintenance and calibration records must be retained and available for review by City personnel.

17.36.100 Clean River Rewards.

- A.** Objectives. The objectives of the Clean River Rewards are to increase ratepayer control over stormwater management charges and to advance City environmental goals. The City achieves these objectives by providing economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.
- B.** Authority. The Director is authorized to establish and administer Clean River Rewards, and promulgate administrative rules to implement the program. The rule must contain the following elements:
 - 1.** definitions for all terms and concepts that are unique to Clean River Rewards, unless otherwise referenced in City Code;
 - 2.** criteria to be used by the City to determine eligibility for Clean River Rewards;
 - 3.** methods for calculating the amount of incentives and discounts to be awarded to eligible registrants;

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4. procedures for verifying the validity and accuracy of incentives and discounts, and enforcing administrative rules; and
5. procedures for review and reconsideration of Bureau decisions upon request of ratepayers.

17.36.110 Extra-Strength Wastewater Charges.

(Replaced by Ordinance No. 184989, effective December 9, 2011.)

- A. Wastewater discharged to a City sewer, either directly or indirectly, is subject to the extra-strength sewage charge if the discharge has a biochemical oxygen demand or a total suspended solids concentration in excess of concentrations determined by the Director. The Director may establish concentrations of other pollutants which are to be subject to extra-strength sewage charges, and for the period until the next rate study, the rates to be charged for exceeding those allowed concentrations, as established, annually, by general ordinance. Payment of the extra-strength sewage charge does not relieve the discharger of responsibility for all other applicable provisions of Chapter 17.34 Sanitary Wastewater Discharges.
 1. Concentration. Pollutants in excess of the allowable concentrations, specified in this Title, and by general ordinance, are subject to the extra-strength sewage charge rate (in dollars per 100 cubic feet) for the period throughout the time interval between sample periods or as defined by the Director.
 2. Volume. The volume used to bill the extra-strength charge must be the total metered water supply to the premises. However, where the industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the industrial user provides a meter or other acceptable method of determining the quantity of water not subject to the extra-strength sewage charge, then an appropriate allowance for such other uses must be made. For multiple tenant buildings with shared water service, extra-strength sewer charges shall be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.
- B. Methodologies for calculating extra-strength sewage charge rates.
 1. Rolling Average. The average concentration of daily representative samples taken over a representative period of 5 days is used to begin an extra strength sewage charge rate for a rolling average, except when another period is specified by the Director. Samples are taken at an

approved sampling manhole or other appropriate location, as determined by the Director, so that samples will be representative.

- a.** Self-monitoring. The Director may authorize a user to submit monitoring data in support of extra-strength sewage charge rate calculations. Samples of wastewater being discharged into the sewer system must be representative of the discharge.

 - (1)** Self monitoring reports. Self-monitoring reports must include sufficient information, for purposes of calculating the rolling average for Extra Strength Sewer Charges.
 - (2)** Analytical procedures. All analytical data submitted for calculating extra-strength sewage charge rates must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register.
 - (3)** Laboratories analyzing for BOD must use approved seed in their analysis. Laboratory reports must indicate the use of approved City seed in order for the data to be used in extra-strength sewage charge rate calculation. The Director may require that the City be provided with a split of any independent sample collected by the user for the purpose of extra-strength sewage charge rate calculation.
- b.** Additional sample requests; fees. Any user subject to rolling average monitoring may request the City to collect samples in excess of the prescribed criteria. Requests for the City to collect additional samples must be submitted in writing and accompanied by full payment, in accordance with the re-sampling fees established, annually, by general ordinance.

 - (1)** Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge rate be split with the user, as provided for in administrative rule.
- c.** Slugloads. The Director may allow the slugload provision as defined in Chapter 17.34 of this Code for purposes of Extra Strength Sewer Charges if the following conditions are met:

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- (1) The discharge is non-representative of the industrial discharge due to it being a defined and unique event;
 - (2) The slugload was reported to the City within 24 hours of the incident;
 - (3) The sample result from the slugload exceeds 3 times the established standard deviation. Once the Director allows the slugload provision, the City will follow the standard procedure for slugload as defined in Chapter 17.34 of this Code. The sample results will be used for calculating a single Extra Strength Sewer Charge based on the duration of the slugload and the concentrations of the results. The results will not be used for purposes of calculating the rolling average for Extra Strength Charges. The number of Extra Strength Sewer Charges slugloads may not exceed two per calendar year.
 2. Extra Strength Class averages. The Director may establish through administrative rule a rate structure for users be billed extra-strength sewer charges based on the average discharge concentration of their business class. Businesses subject to class average extra-strength sewage charges shall be eligible for rate reductions based on the verifiable implementation of approved best management practices, using criteria to be established by administrative rule.
 3. Other charge computations. If unusual effluent conditions make calculation by the rolling average or the extra strength class average method difficult or impossible, the Bureau may implement another method of sampling and computation acceptable to the Director, and based on the rates established, annually, by general ordinance. The Director has the right to establish custom rates based on site specific conditions per the criteria in administrative rule.
- C. Billing. Extra-strength sewage charges are either included with the City utility bill or are billed separately by the City Auditor. Extra-strength sewage charges are enforceable and collectable in the same manner as water and sewer user charges. If such charges are not paid pursuant to Title 21 of this Code, such nonpayment is cause for termination of water and/or sewer services.
- D. Minimal charges; suspension. The Director may establish a minimum limit for periodic extra-strength charges using the rolling average method. The billing for all accounts whose periodic extra-strength sewage charges are below this

minimum limit will be suspended or changed to the class average method until such time as they are found to be higher.

- E.** Adjustments. The Director may sample sewage strength as outlined in this Section and adjust charges where applicable at any time in accordance with the most recent analysis.

17.36.120 Other Charges.

Building plan review fees. The Bureau collects fees for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, and for determining routes of service. Fees are established annually, by general ordinance, and paid at the time the plans or proposals are submitted for review to the City.

17.36.130 Computing and Billing.

In cases where City utility bills apply, the user charges, provided in this Chapter, are computed monthly, bimonthly, or quarterly, and billed to the responsible party described in Code Section 21.16.030 Billing Responsibility at the same time as the user charges for water service and added thereto; or otherwise, as may be authorized by the Council. When billed with the utility bill, user charges are due and payable on the dates and at the places provided for the payment of user charges for water service. The City may prorate user charges for a portion of a utility billing period based on the effective date of the sanitary sewer or stormwater management service.

17.36.140 Certain Installations Unlawful.

It is unlawful to so install, change, bypass, adjust, or alter any metering device or any piping arrangement connected therewith as to show the quantity of water reaching the public sewer under City control to be less than actual quantity.

17.36.0150 Identification of Inspectors.

Each City employee going upon private premises for the purpose of reading, inspecting or testing any metering device installed under the provisions of this Title, must wear, in a conspicuous place, upon the exterior of his or her clothing a readily discernible badge identifying the employee as a sewer user service inspector. Each City employee, when acting as a sewer user service inspector, must also carry credentials from the Bureau of his or her employment, which he or she must show upon demand of any owner or person in charge of the premises entered.

17.36.160 Collection.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** Sewer charges assessed under this Chapter are a personal obligation of the ratepayer and shall become due, and be collected monthly, bimonthly, or quarterly, coincident with user charges for water service. For ratepayers who do

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not receive water service from the City, the Bureau will cause the user charges to be computed and billed monthly, bimonthly, or quarterly. Any bill for a user charge, whether included with user charges for water service or otherwise, is delinquent and subject to collection charges if not paid in accordance with the collection schedule published in the annual rate ordinances. Nonpayment of delinquent user charges will result in water shutoff pursuant to Title 21 of this Code when the premises are furnished water service by the City.

- B.** All charges for services provided directly by the City are chargeable to the user of said service at that premises (or any former premises where services were supplied). If the premises are not in use, all charges (not including charges incurred by a prior tenant other than the owner) are the responsibility of the owner as the person with the right to possession of the premises. A property owner or his agent may become obligated for charges for furnishing such services to the user by accepting responsibility for payment, or by agreement with the City. Where a user or property owner has a delinquent bill for one premises, this delinquency is a charge against the user or property owner (for sewer service obtained) at any of his or her other premises serviced by the City.
- C.** The Director, with approval of the Commissioner-in-Charge, may discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceeds \$10,000 for a period of 90 days or more. Ratepayers and property owners must be notified in writing of the City's intent to disconnect the sewer not less than 30 days prior to disconnection. Payment of the delinquent amount, including outstanding user charges, accrued interest and collection costs, and all costs associated with disconnecting and reconnecting the sewer line, must be received by the City before the property may be reconnected to the sewer. The delinquent amount remains the responsibility of the ratepayer. In the event a ratepayer who is not the owner terminates their lease and moves from a disconnected property before reconnection has occurred, the City will reconnect the property and collect the cost as well as all delinquent amounts from the ratepayer who originally incurred the charges.

17.36.170 Deposit and Application.

An application, deposit, or both, for sanitary sewer or stormwater management services may be required from all new ratepayers, ratepayers whose service has been shut off for nonpayment, or persons with unsatisfactory credit who are requesting services. Unsatisfactory credit is defined as shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the City may result in discontinuance of service.

17.36.180 Adjustment of Bills.

(Amended by Ordinance No. 185397, effective July 6, 2012.)

- A.** When the Bureau determines that a billing error has occurred, the Bureau may authorize an adjustment as provided by Subsection 17.36.180 C. below for the period of the error, but not to exceed three years from the date the error is identified unless the Bureau allows an exception in response to an appeal under Section 17.38.190.
- B.** Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end six months after the date a final bill was issued for the subject account. The Director make authorize an adjustment to the ratepayer of a closed utility account, more than six months after the issuance of the account's final bill, based on the following criteria:

 - 1.** The Bureau finds that the ratepayer was billed for sanitary sewer services for a property that was not connected to the City's sewer system; and
 - 2.** The error is discovered after the six month deadline for adjustments to a final bill; and
 - 3.** The request is made in writing by the ratepayer of record at the time the billing error occurred; and
 - 4.** The adjustment is limited to the sanitary sewer user charge; and
 - 5.** The Director finds that the adjustment is necessary to protect the financial condition of the sanitary sewer utility.
- C.** Adjustments will be in the form of credits or additional charges to active utility accounts. The City may not issue refunds for billing adjustments unless approved by the Director. Refunds are chargeable to the Sewer System Operating Fund.
- D.** Ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a set period based on current City collection policies.

17.36.190 Appeal.

(Amended by Ordinance No. 184989, effective December 9, 2011.) If a property owner or owner's agent does not agree that the calculation of connection or user charges was administered as set forth in this Section, he or she may appeal to the Director for an administrative review. The owner or owner's agent must file a written appeal to the Director prior to payment or within 10 days of payment of the charge. The owner or owner's agent has an opportunity to present evidence in the course of the review. The

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Bureau provides the owner or owner's agent a decision in writing within 10 days of the receipt of appeal request. Upon receipt of the statement, the Bureau of Environmental Services shall schedule the matter for review by the Director or his or her designated representative. The user shall receive a decision in writing within 30 days of the receipt of appeals request. A person aggrieved by any decision or determination of the administrative review process may appeal the decision to the Code Hearings Officer as provided in Chapter 22.10 of the Code of the City

A. Appeals to specific programs. The following specific programs have distinct appeal and administrative review processes as established in program administrative rules found on Portland Policy Documents (PPD):

- 1.** Extra Strength Program (PPD item ENB 4.25)
- 2.** Clean River Rewards Program (PPD item ENB 4.16)
- 3.** Sewer User fees (PPD item ADM 14.02)

Chapter 17.37

DOWNSPOUT DISCONNECTION

(Replaced by Ordinance No. 182467,
effective February 6, 2009.)

Sections:

- 17.37.010 Purpose.
- 17.37.020 Definitions.
- 17.37.030 Establishment of Downspout Disconnection Program.
- 17.37.080 Program Enforcement.
- 17.37.110 Interference with Disconnection Activities Unlawful.
- 17.37.120 Liability.
- 17.37.130 Civil Remedies.
- 17.37.150 Bureau Actions.
- 17.37.140 Notice Sufficiency.
- 17.37.160 Severability.

17.37.010 Purpose.

(Amended by Ordinance No. 185397, effective July 6, 2012.) The purpose of downspout disconnection is to remove stormwater from the combined sewer system to reduce the cost of large conveyance, storage, and treatment facilities needed to capture and treat stormwater or combined sewage.

17.37.015 Rule Making.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.37.020 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) For the purpose of this Chapter, the following definitions shall apply:

- A. **“Combined Sewer”** means a sewer designed to convey both sanitary sewage and stormwater.
- B. **“Director”** means the Director of the Bureau of Environmental Services or the Director’s designee.
- C. **“Downspout”** means the conductor that conveys storm water from the gutter on the exterior of a building or other structure to another place of disposal.
- D. **“Disconnection”** means physically plugging or capping the direct stormwater

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connection to a sewer and redirecting the stormwater either onto the surface of the property or under ground. This may require alterations to gutters, downspouts and landscaping.

1. For properties that have a branch constructed to the edge of the property line from a public separated storm system, disconnection from the combined sewer may be accomplished by direct stormwater connection through a lateral to the public storm system. New storm connections to the City sewer or storm system are subject to the Stormwater Management Manual requirements for new connections to public systems.
 2. For properties where surface or underground disposal of roof water is not feasible, disconnection may include a curb cut which discharges roof water to a curbed street. New storm connections to the city sewer or storm system are subject to the Stormwater Management Manual requirements for new connections to public systems.
 3. New stormwater facilities are required to meet the requirements of the Stormwater Management Manual.
- E. **“Program area”** means the boundaries of the Downspout Disconnection Program area as shown on the map in administrative rules.
- F. **“Workers Authorized By the Director”** means, but is not limited to, City employees and contractors hired by the City.

17.37.030 Establishment of Downspout Disconnection Program. (Replaced by Ordinance No. 185397, effective July 6, 2012.)

- A. **Eligibility.** Properties located within the boundaries of the disconnection area as shown on the map within the program administrative rules. A property is eligible for participation if the property:
1. Meets the "residential use" criteria in PCC Chapter 33.920; or
 2. Meets the "commercial use" criteria in PCC Chapter 33.920, and has site conditions that would allow for safe and effective disconnection as identified in Section 17.32.040.
- B. **Deadlines.** The Downspout Disconnection Program shall pursue the objective of managing stormwater directly connected to the combined sewer on eligible properties in the program area and removing necessary amounts of stormwater from the combined sewer no later than the deadlines in the Downspout

Disconnection Program Administrative Rules. Deadlines may be met sooner based upon the schedule for the projects in specific sewer basins.

- C. Procedures.** Disconnection procedures and policies are described in the Downspout Disconnection Program Administrative Rules. All downspouts that are disconnected from the combined sewer through this program must conform to the disconnection methods or systems approved by the Director. Technical assistance will be provided to property owners, upon request, to determine the most appropriate method of stormwater management.
- D. Access to Eligible Property.** For the purpose of administering this code chapter, the Director or other workers authorized by the Director may, with consent from the property owner or occupant and upon production of proper identification, enter upon the land or premises of eligible property. The purpose of such entry is to survey a downspout to determine whether it is connected, to provide technical assistance regarding proper disconnection, to disconnect downspouts, to correct or otherwise fix disconnected downspouts, to reconnect downspouts that do not meet program standards, or to inspect downspouts which have been disconnected.
- E. Ownership of private stormwater systems.** The property owner shall own the new private stormwater management system and be responsible for ensuring that the new private system is properly maintained and operated.
- F. Reconnection of disconnected downspouts at participating properties.**

 - 1. Property owners in mandatory program areas are prohibited from reconnecting to the combined sewer unless the City determines that the disconnection poses a threat to health, safety or property and approves the reconnection. Homeowners must contact the Downspout Disconnection Program if they believe reconnection is necessary.
 - 2. Property owners in the voluntary area must contact the Downspout Disconnection Program if they plan to reconnect their downspout(s).

17.37.040 Disconnection Procedures.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.37.050 Disconnection Reimbursement.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.37.080 Program Enforcement.

Any property whose downspouts have not been granted an exception and remain connected to the combined sewer system in violation of Subsection 17.37.030 B.3. is hereby declared a nuisance and subject to abatement or correction. Whenever the

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Director believes such a nuisance exists, a notice shall be posted on the property directing that the nuisance be abated or corrected. The City retains the right to take any or all of the following enforcement actions if the property owner or their agent fails to abate this nuisance:

- A. **Summary abatement.** If the property owner or their agent continues to ignore or refuses to abate the declared nuisance, the City reserves the right to obtain an order from the City Code hearings officer to summarily abate the nuisance on subject property. The City shall attempt to bill the property owner for the costs of disconnection from the combined sewer.
- B. **Civil Remedy.** The City shall have the right to obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and other charges as determined by the Director.
- C. **Court Action.** In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.
- D. **Withholding of BES Services.** Except as provided elsewhere in this Title or when the public welfare is endangered; the Bureau of Environmental Services may at its discretion withhold from the owner(s) (or the owner's agent) of disconnection delinquent property as defined in Section 17.37.030, any service that is provided by the Bureau. This may include, but is not limited to:
 - 1. Refusal of acceptance of application for permits relating to development on **any** property of the said owner(s).

This withholding may continue until the disconnection delinquency no longer exists

- E. **Appeal.** Property owners or their agents may request an administrative review as described in the Downspout Disconnection Administrative Rules to contest the city's declaration of a nuisance or to request an extension in the abatement time frame. If the appellant is unsatisfied with the BES staff response they may appeal the request to the City Code Hearings Officer as specified in Title 22 and in the Downspout Disconnection Program Administrative Rules.
 - 1. In the event that the City needs to enforce the terms of the Code Hearings Officer's order referred to in Section 17.37.080, an administration fee of

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\$300 for each occurrence and associated costs for each occurrence for enforcing the terms of the order shall be billed to the property owner of the property in accordance with the provisions of Chapter 22.06. If the administrative fee remains unpaid after 90 days, the administrative fee shall be made a lien on the property in accordance with the provisions of Chapter 22.06.

17.37.110 Interference with Disconnection Activities Unlawful.

It shall be unlawful for any person to attempt to obstruct, impede, or interfere with any officer, employee, contractor, agent, or authorized representative of the City whenever such officer, employee, contractor, agent, or authorized representative of the City is engaged in the work of disconnecting downspouts from the combined sewer under the authority of an order of the Code Hearings Officer issued pursuant to Subsection 17.37.080 C. above.

17.37.120 Liability.

Neither the City nor any of its officers, employees, contractors, agents, or authorized representatives shall be liable for any damage to or loss of the real property of any improvements, emblements, or personal property thereon due to the enforcement or administration of this Chapter.

17.37.130 Civil Remedies.

- A.** In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to obtain, in any court of competent jurisdiction, a judgment against the person or property failing to disconnect from the combined sewer in accordance with the provisions of Section 17.37.030. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit fees, overhead costs, penalties, and other charges as determined by the Director.
- B.** In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.

17.37.140 Notice Sufficiency.

For the purposes of any noticing procedure as set forth by this Chapter, notice shall be deemed to have been received upon mailing of that notice. An error in the name of the owner or agent of the owner or the use of a name other than that of the true owner or agent for the property shall not render the notice void.

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17.37.150 Bureau Actions.

All City Bureaus shall, to the fullest extent consistent with their authority, carry out their programs in such a manner as to further the provisions of this Title, and shall cooperate to the fullest extent in enforcing the provisions of this Chapter.

17.37.160 Severability.

If any provisions of this Chapter, or its application to any person or circumstances, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

Chapter 17.38

DRAINAGE AND WATER QUALITY

(Chapter replaced by Ordinance
No. 173330, effective June 4, 1999.)

Sections:

- 17.38.010 Authority.
- 17.38.015 Intent.
- 17.38.020 Definitions.
- 17.38.030 Protection of Drainageway Areas.
- 17.38.035 Drainage Management Policies and Standards.
- 17.38.040 Stormwater Management Facilities Required.
- 17.38.041 Parking Lot Stormwater Requirements.
- 17.38.043 Inspections.
- 17.38.045 Enforcement.
- 17.38.050 Erosion Control Required.
- 17.38.055 River Restoration Program.

17.38.010 Authority.

(Amended by Ordinance No. 174745, effective August 25, 2000.) The Director of Environmental Services is responsible for administering the requirements of this Chapter. The Director has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this chapter and to maintain a Stormwater Management Manual.

17.38.015 Intent.

(Amended by Ordinance Nos. 182144 and 185397, effective July 6, 2012.) The intent of this Chapter is to provide for the effective management of stormwater, groundwater, and drainage, and to protect and improve water quality in the City of Portland.

17.38.020 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) For the purpose of this Chapter, the following definitions shall apply:

- A. "Approved Drainage System"** means a system approved by BES which adequately collects, conveys, treats or disposes of stormwater runoff or other site discharge. Approved systems must meet all requirements and specifications laid out in this code, BES design manuals and documents, and any applicable plumbing code provisions relating to the piped portions of any system.

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- B. "Capacity"** means the flow volume or rate that a specific facility (e.g., pipe, pond, vault, swale, ditch, or drywell) is designed to safely contain, receive, convey, reduce pollutants from or infiltrate to meet a specific performance standard.
- C. "Combination Facilities"** means stormwater management systems that are designed to meet two or more of the objectives detailed in the Stormwater Management Manual
- D. "Conveyance"** means the transport of stormwater, wastewater or other discharge from one point to another point.
- E. "Director"** means the Director of the Bureau of Environmental Services, or the Director's designee.
- F. "Discharge"** means any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking or placing of any material so that such material enters or is likely to enter a waterbody, groundwater, or a public sewer and drainage system.
- G. "Discharge Point"** means the connection point to a public sewer or drainage system or destination for a discharge leaving a site.
- H. "Discharge Rate"** means the rate of flow expressed in cubic feet per second (cfs).
- I. "Drainageway"** means an open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.
- J. "Green Street"** means a vegetated stormwater management facility located within the planting strip or other portion of public or private rights-of-way.
- K. "Groundwater"** means subsurface water that occurs in soils and geological formations that are fully saturated. Groundwater fluctuates seasonally and includes perched groundwater. Groundwater related discharges include, but are not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, rainwater infiltration into excavations and subsurface water associated with construction or property management dewatering activities.
- L. "Impervious Surface"** means any surface that has a runoff coefficient greater than 0.8 (as defined in the City's Sewer and Drainage Facilities Design Manual). Types of impervious surfaces include rooftops, traditional asphalt and concrete parking lots, driveways, roads, sidewalks and pedestrian plazas. Slatted decks and

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gravel surfaces are considered pervious unless they cover impervious surfaces or gravels are compacted to a degree that causes their runoff coefficient to exceed 0.8.

- M. "Infiltration"** means the percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour) which is determined through an infiltration test.
- N. "Pollutants of Concern"** means parameters identified by DEQ or BES as having the potential to have a negative impact on the receiving system, including surface waters, groundwater, the wastewater collection system and/or the wastewater treatment plant. Pollutants of concern can include suspended solids, heavy metals, nutrients, bacteria and viruses, organics, volatiles, semi-volatiles, floatable debris and increased temperature.
- O. "Practicable"** means available and capable of being done as determined by the Director, after taking into consideration cost, resources, existing technology, and logistics in light of overall project purpose.
- P. "Public Right-of-Way"** means the area within the confines of a dedicated public street, an easement owned by the City, or other area dedicated for public use for streets or public utilities.
- Q. "Redevelopment"** means any development that requires demolition or complete removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding, re-paving (where the entire pavement is not removed) and re-roofing are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment. Utility trenches in streets are not considered to be redevelopment unless more than 50 percent of the street width is removed and re-paved.
- R. "Site Map"** means a map showing the stormwater management facility location in relation to buildings, structures or permanent survey monuments on the site. A site map shall depict location of sources of runoff entering the stormwater management facility and the discharge point and type of receiving system for discharge leaving the facility.
- S. "Stormwater"** means water that originates as precipitation on a particular site, basin, or watershed. Also referred to as runoff.
- T. "Stormwater Management"** means the overall culmination of techniques used to reduce pollutants from, detain, retain, or provide a discharge point for stormwater to best preserve or mimic the natural hydrologic cycle, to accomplish

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goals of reducing combined sewer overflows or basement sewer backups, or to fit within the capacity of the existing infrastructure.

- U. "Stormwater Management Facility"** means a facility or other technique used to reduce volume, flow rate or pollutants from stormwater runoff. Stormwater facilities may reuse, collect, convey, detain, retain, or provide a discharge point for stormwater runoff.
- V. "Temporary Structure"** means a structure that is separate and distinct from all other structures and is created and removed in its entirety within three years, including all impervious area associated with the structure.
- W. "Tract"** means a parcel of land designated as part of a land division per Title 33 that is not a lot, lot of record, or a public right-of-way .
- X. "Wetland"** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas except those constructed as pollution reduction or flow control facilities.

17.38.025 Rule Making.

(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.38.030 Protection of Drainageway Areas.

(Added by Ordinance No. 176561; amended by Ordinance Nos. 176783, 182144 and 185397, effective July 6, 2012.)

- A. Authority.** The Director may require drainage reserves or tracts over seeps, springs and drainageways as necessary to preserve the functioning of these areas and to limit flooding impacts from natural and man made channels, ditches, seeps, spring, intermittent flow channels and other open linear depressions. Standards and criteria for imposing drainage reserves or tract requirements shall be adopted by administrative rule. Placement and/or sizing of drainage reserves does not relieve property owners of their responsibility to manage stormwater in a manner that complies with the duties of property owners under applicable law. Drainage reserve or tract requirements may be imposed during land use reviews, building permit review or other development process that require Bureau of Environmental Services (BES) review.
- B. Required Management of the Drainage Reserve.** Storm drainage reserves or tracts shall remain in natural topographic condition. No private structures, culverts, excavations, or fills shall be constructed within drainage reserves or tracts unless

authorized by the BES Chief Engineer by administrative rules found in the Stormwater Management Manual. All changes must also comply with other zoning regulations as described in Title 33. Encroachment agreements can be made between the property owner and the City.

- C.** Implementation. BES has authority to identify and implement protections for drainageways during multiple development review processes, including land use reviews and building permit reviews. The early identification efforts will consider the ability of developers to design around drainage reserve areas.

17.38.035 Drainage Management Policies and Standards.

(Amended by Ordinance Nos. 174745, 176561, 176783, 176955, 180037, 182144 and 185397, effective July 6, 2012.)

- A.** Stormwater shall be managed in as close proximity to the development site as is practicable, and stormwater management shall avoid a net negative impact on nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met by the owner/operator prior to facility use. Surface water discharges from onsite facilities shall be discharged to an approved drainage facility.
- 1.** The City may initiate individual agreements with property owners to manage stormwater flows through alternative methods to onsite controls:
 - a.** In joint facilities where public and private property flows co-mingle.
 - b.** In offsite areas that are “traded” for required onsite management areas related to new and redevelopment. The City may require more than a 1:1 exchange on the amount of required management area.
 - 2.** All discharges must be routed to a discharge point approved by the Director. Approval of discharge points must meet the following standards:
 - a.** The discharge must be conveyed along a route of service approved by the Director.
 - b.** The discharge point must comply with the following standards and specifications:

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- (1) Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual.
 - (2) Stormwater or other discharges to the City's storm and drainage system must comply with the Stormwater Management Manual.
- B.** The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
 1. Stormwater management facilities required for development shall be designed, installed and maintained in accordance with the Stormwater Management Manual, which is based on achieving at least 70% removal of the Total Suspended Solids (TSS) from the flow entering the facility for the design storm specified in the Stormwater Management Manual.
 2. Land use activities of particular concern as pollution sources shall be required to implement additional pollution controls including but not limited to, those management practices specified in the Stormwater Management Manual.
 3. Development in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean Water Act, Oregon Law, Administrative Rules and other legal mechanisms shall assure that stormwater management facilities meet the requirements for pollutants of concern, as stated in the Stormwater Management Manual.
 4. Stormwater discharge which is not practicable to fully treat to the standards of this Section and the Stormwater Management Manual, shall be either:
 - a. Managed in an offsite facility or
 - b. Given the option of paying a stormwater offsite management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of onsite facilities where such facilities would be effective and establish the calculation method and fee by rule. The stormwater offsite management fee collected shall be placed in a mitigation account to be used to mitigate the impacts that arise from offsite discharge of stormwater runoff.

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5. Notwithstanding Subsection 17.38.035 B.4., for any parcel created after the effective date of this Chapter, the development shall fully treat all stormwater:
 - a. Onsite, or
 - b. Within the original parcel from which the new parcel was created, or
 - c. In a privately developed offsite facility with sufficient capacity, as determined by the Bureau.
 6. The Director is authorized to exempt land uses, discharge locations or other areas of the city from the requirements of this Subsection if onsite pollution reduction or pollution control is not needed or desirable due to limited pollutant loads or offsite methods of pollution control are available. All exemptions are specified in the Stormwater Management Manual.
- C. The quantity and flow rate of stormwater leaving the site after development shall be equal to or less than the quantity and flow rate of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
1. Development shall mitigate all project impervious surfaces through retention and on-site infiltration to the maximum extent practicable. Where on-site retention is not possible, development shall detain stormwater through a combination of provisions that prevent an increased rate of flow leaving a site during a range of storm frequencies as specified in the Stormwater Management Manual.
 2. The Director is authorized to exempt areas of the city from the quantity control requirements if flow control is not needed or desirable because there is sufficient capacity and limited impacts to the receiving drainage system. All exemptions shall be specified in the Stormwater Management Manual.
 3. Any development that discharges to a tributary of the Willamette River, other than the Columbia Slough, shall design stormwater management facilities such that the rate of flow discharging from such facilities for up to a two-year design storm event does not lengthen the period of time the tributary channel receiving the discharge sustains erosion causing flows, as determined by the Bureau.

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4. Site drainage facilities shall be designed to safely convey the less frequent, higher flows through or around stormwater management facilities and to an approved drainage system with adequate capacity without damage to the receiving drainage system, whether natural or manmade.
 5. Stormwater discharge which cannot be practicably managed for quantity or flow rate control as defined in this Subsection and the Stormwater Management Manual shall either be:
 - a. Managed in an offsite facility designed for the pollutant load, volume and rate of flows from subject property and managed by the site developer/site owner or another legal agent, or
 - b. Managed in an offsite stormwater management facility operated by the City subject to paying a stormwater offsite management fee. The Bureau will employ a methodology for calculating the fee that is based upon an average unit cost of onsite facilities where such facilities would be effective and establish the calculation method and fee by rule. The stormwater offsite management fee collected will be placed in a mitigation account to be used to mitigate the impacts that arise from offsite discharge of stormwater runoff.
 6. Notwithstanding Subsection 17.38.035 C.5., for any parcel created after the effective date of this Chapter, stormwater shall be fully managed:
 - a. Onsite, or
 - b. Within the original parcel from which the new parcel was created, or
 - c. In a privately developed offsite facility with sufficient capacity, as determined by the Bureau.
- D. The Director is authorized to establish requirements for the pumping and discharge of groundwater as a waste (discharge to waste). The Stormwater Management Manual regulations govern both quality and quantity impacts of pumping and discharging groundwater to City receiving systems. The regulations may exempt, establish discharges as de minimus, or provide for and limit the permanent or temporary discharge of groundwater. Temporary groundwater discharges may be authorized through the batch discharge processes described in Title 17.34 and 17.39. In establishing rules to regulate the pumping and discharge of groundwater as a waste, the Director shall, at a minimum, incorporate and implement the following standards.

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1. Authorizations for discharge. Unless the Director's rules establish exceptions or determines discharges are de minimus, any pumping and discharge to waste of groundwater may proceed only after a groundwater specific discharge authorization by the Director. This authorization shall establish volume, flow rate and pollutant load limits for the discharge.
2. Limiting flow volume and flow rate. Pumping and discharge of groundwater as a waste will only be allowed where the proposed discharger has first reduced the rate and volume of groundwater requiring discharge to a City system to the greatest extent practical. Examples include:
 - a. Limiting the pumping and discharge of groundwater to rates not exceeding those rates that would be required for a building designed and engineered to minimize ground water intrusion and necessary ground water pumping; and
 - b. Requiring management techniques implemented by the property developer and operator to assure continued effective use of structures in the presence of groundwater infiltration; and
 - c. When there is sufficient capacity in the City receiving system. Capacity shall be defined by rule and will consider providing capacity for other and future anticipated and primary uses of the systems.
3. Onsite management a priority. Pumped ground water shall be managed first by onsite methods, such as infiltration, to the greatest extent practical. Thereafter private conveyance facilities shall discharge through infiltration offsite or to surface water bodies. Offsite discharge to City systems shall be approved only after onsite alternatives are evaluated.
4. Prohibited discharges. Offsite discharges meeting the following criteria are prohibited:
 - a. Discharge to City-owned underground injection controls (UICs).
 - b. Discharges meeting the tests for prohibited discharges in Chapters 17.34 and 17.39. Notwithstanding this limitation, the City may allow discharge of contaminated ground water that has been treated to meet standards set by the Director to insure that any groundwater discharges do not cause or threaten to cause a public nuisance, groundwater or surface water pollution, cause or threaten

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to cause the City to violate its own discharge permits granted by the Department of Environmental Quality.

- (1)** The Director may establish rules to limit or prevent the pumping and discharge of contaminated groundwater and may require one-time or on-going testing or monitoring of water quality by the applicant for discharge authorization approval.
- E.** All conveyance systems shall be analyzed, designed and constructed for existing tributary offsite runoff and developed onsite runoff from the proposed project in compliance with the City's Sewer and Drainage Facilities Design Manual. The general goal of these standards is to convey both onsite and offsite waters in a way that meets the capacity needs of the City conveyance system, is protective of public health and safety, and that minimizes environmental impacts in the downstream receiving system. The Director reserves the right to determine the appropriateness of combination facilities in meeting these standards.
- F.** All discharge systems shall comply with the standards set forth in the Stormwater Management Manual. Public systems shall be reviewed and approved by BES in compliance with the sizing and location standards in the Stormwater Management Manual. Private onsite systems shall comply with the stormwater hierarchy and other guidance specified in the Stormwater Management Manual, and shall be reviewed by Bureau of Development Services for compliance with the plumbing code regulations in Section 25.01.020.

17.38.040 Stormwater Management Facilities Required.

(Amended by Ordinance Nos. 174745, 176783, 180037, 182144, 183397 and 185397, effective July 6, 2012.) No plat, site plan, building permit or public works project shall be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities designed according to standards or guidelines established by the Director and as specified in the Stormwater Management Manual.

- A.** Applicability. All development and redevelopment sites with the following triggers must comply with the standards of the Stormwater Management Manual:
 - 1.** Creation of any new impervious area. Sites with 500 square feet or more of impervious area must be managed for pollution reduction, quantity or flow control requirements as spelled out in this Section; or

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2. Modification to or construction of new areas with pollution generating activities of concern as identified in the Stormwater Management Manual. These areas must be constructed with applicable onsite controls; or
 3. New connections or new drainage areas routed into the City's sewer or drainage system under a City permit. These connections most often are generated from decommissioning of private, onsite drainage or groundwater related systems.
 4. Temporary structures are exempt from pollution reduction and flow control requirements, except for specific instances called out in the Stormwater Management Manual.
- B.** Exemptions. The requirements of this Chapter for stormwater management do not apply to:
1. Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.
 2. Public or private development that does not result in impervious surface coverage or results in coverage that is de minimus in relation to discharge, such as fences, environmental enhancement projects, buried pipelines or cables, and utility lines.
 3. Impervious surface created by a stormwater management facility such as but not limited to headwalls, manhole or vault covers. Paved or compacted gravel facility access and maintenance roads that extend beyond the facility itself, are not exempted from the management requirements of this Title.
- C.** Appeals. Any applicant for a permit or authorization aggrieved by a decision, interpretation, or determination made pursuant to this Chapter or rules adopted thereunder, including the Stormwater Management Manual, may appeal such action in accordance with appeals processes specified in the Stormwater Management Manual.
1. Provision for reasonable interpretation of the Stormwater Management Manual. The Director shall establish an internal BES Administrative Review Committee and a BES Appeals Board. The Chief Engineer of the Bureau of Environmental Services shall appoint outside members to the BES Appeals Board.

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2. Applicants shall file appeals in accordance with the appeals process procedures specified in the Stormwater Management Manual.

D. Maintenance of Stormwater and Groundwater Management Facilities.

1. All applicants for new development, redevelopment, plats, site plans, building permits or public works projects, as a condition of approval, shall be required to submit an operation and maintenance plan and the required plan cover sheet for the required stormwater management facilities for review and approval by the Director, unless otherwise exempted in the Stormwater Management Manual. A stormwater management facility that receives stormwater runoff from a public right-of-way shall be a public facility, and maintained by the City, unless the right-of-way is not part of the City road maintenance system.
 - a. The information required in an operation and maintenance plan shall satisfy the requirements in the Stormwater Management Manual. Applicants are required to submit the O & M recording form with the plan and are encouraged to use the O & M Plan template provided in the Stormwater Management Manual. The Plan shall include and not be limited to:
 - (1) Design plans of the specific facility and related parts, including design assumptions; and
 - (2) A schedule for routine inspection, including post storm related inspections; and
 - (3) A description of the various facility components, the observable trigger for maintenance, and the method of maintenance, including appropriate method of disposal of materials; and
 - (4) The intended method of providing financing to cover future operations and maintenance; and
 - (5) The party or parties responsible for maintenance of the facility including means of effecting contact, including contact means for emergency situations. The party may be an individual or an organization.
 - b. A maintenance log is required. The log shall provide a record of all site maintenance related activities. The log shall include the time and dates of facility inspections and specific maintenance

activities. This log shall be available to City inspection staff upon request.

2. Failure to properly operate or maintain the water quality or quantity control facility according to the operation and maintenance plan may result in an enforcement action, including a civil penalty, as specified in Section 17.38.045, Enforcement.
 - a. Property owners adjacent to green street shall not be responsible for routine maintenance of the stormwater management facilities. Property owners shall notify BES prior to making a utility connection across the facility. Owners are encouraged to contact the Director if they feel a City crew facility maintenance visit is warranted. Property owners are encouraged to perform the following tasks with BES approval:
 - (1) Trash and debris removal (not including sediment)
 - (2) Weed removal
 - (3) Leaf pick up and removal
 - (4) Removal of dead plantings
 - (5) Watering of vegetation
 - (6) Clearing inlets and outlets to allow stormwater to freely enter and exit the facility
 - b. Adjacent owners wishing to modify facility plantings or encroach on facility structures must obtain authorization from the Director before commencing work.
 - (1) Plant scheme modifications. Alternative plant lists and/or planting plans will be required to modify facility plant schemes. Written approval of plant modification plans must be obtained from the manager of the BES Revegetation program before green street facility plantings may be modified.
 - (2) Structural modifications. Encroachments into public easements or public facility areas must obtain a permitted as required in Chapter 17.32 and the associated public works permit administrative rules.

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3. A copy of the operation and maintenance plan shall be filed with the Bureau of Environmental Services. Staff may require a site map to be recorded and filed with the appropriate county Department of Assessment and Taxation.
- E. The Director may file instruments in county deed records to inform future property owners of regulations and conditions of approval related to the property as provided in this Chapter and associated rules, including the Stormwater Management Manual.

17.38.041 Parking Lot Stormwater Requirements.

(Added by Ordinance No. 174745; amended by Ordinance No. 180037, effective April 28, 2006.) Stormwater runoff from parking lots must be managed in parking lot interior or perimeter landscaping to the extent required by the Stormwater Management Manual. The Director is authorized to exempt activities, land uses, or identified sites from these requirements if use of parking landscape areas is not needed or desirable because of non-conforming or existing landscape areas. All exemptions are described in the Stormwater Management Manual.

17.38.043 Inspections.

(Added by Ordinance No. 185397, effective July 6, 2012.) Authorized City representatives may inspect stormwater or groundwater management facilities to determine compliance with this Chapter. The facility owner shall allow and provide for free access for representatives of the Bureau of Environmental Services to enter upon the premises where the facility is located for the purpose of inspection or assuring compliance with this Chapter and the Stormwater Management Manual.

- A. Conditions for entry.
 1. The authorized City representative shall present appropriate credentials at the time of entry.
 2. The purpose of the entry shall be for inspection to ensure compliance of the onsite stormwater management facilities with this Chapter and the Stormwater Management Manual of the onsite stormwater management facilities.
 3. Entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Director.

17.38.045 Enforcement.

(Amended by Ordinance Nos. 180037, 182144 and 185397, effective July 6, 2012.)

- A.** Enforcement. Persons who fail to comply with the provisions of this chapter and the BES Stormwater Discharge Enforcement Rules adopted hereunder may be subject to enforcement actions by the Director.
- B.** Violations. A violation shall have occurred when:

 - 1. Any requirement of this Chapter or rules adopted hereunder has not been met; or
 - 2. When a written request of the Director, made under authority of this Chapter, is not met within the specified time; or
 - 3. When any condition of an operations and maintenance plan or agreement issued under the authority of this Chapter or rules is not met within a specified time; or
 - 4. When the facility through maintenance neglect or facility failure no longer operates as designed, or
 - 5. When the facility fails to have a properly recorded or inaccurate O & M plan on file with BES.
- C.** Remedies. Enforcement Mechanisms. If BES determines that a violation has occurred or is likely to occur, BES may offer technical assistance and education to the responsible party to prevent or correct the violation. In enforcing any of the requirements of this Chapter or rules adopted hereunder, the Director, or a duly authorized representative, may employ any of the following enforcement methods:

 - 1. Take civil administrative actions, as set out in rules adopted under the authority of this chapter;
 - 2. Issue compliance orders;
 - 3. Institute an action before the Code Hearings Officer
 - 4. Cause an appropriate action to be instituted in a court of competent jurisdiction; or
 - 5. Take such other action as the Director, in the exercise of his or her discretion, deems appropriate.

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- D.** Penalties. Violations of this chapter or rules adopted hereunder may result in assessment of civil penalties in an amount up to \$500 per day per violation.
- 1.** Collection of penalties and costs. All civil penalties shall be deposited with the City Treasurer and credited to the Sewage Disposal Fund. Penalties and costs are payable upon receipt of the final order imposing penalties and costs. Penalties and costs under this chapter are a debt owing to the City and may be collected in the same manner as any other debt. Penalties shall accrue interest and any other applicable charges until the penalty is paid in full. The City may initiate appropriate legal action in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the Hearings Officer.
- E.** Appeals. Appeal of an enforcement action. Upon receipt of a final determination of an enforcement action, a person may appeal the determination to the Code Hearings Officer in accordance with the procedures set out at Chapter 22.10 of the Portland City Code provided that such appeal shall include a copy of the final determination that is the subject of the appeal, shall state the basis for the appeal, and shall be filed with the Code Hearings Officer and the Bureau of Environmental Services.
- F.** Nuisance. A violation of this Chapter shall constitute a nuisance. Summary abatement of such nuisances is authorized.
- G.** Cost recovery. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with the violations of this Chapter, including but not limited to the costs of administration, investigations, legal or enforcement activities, damages to or contamination of the sewer and stormwater systems; and any civil penalties assessed on the City which result from activities not in compliance with this chapter or rules adopted hereunder. The Director may also make a lien on the property or properties in accordance with the provisions of Chapter 22.06.
- H.** Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to extent of such inconsistency or conflict.
- I.** Severability. If any provision, paragraph, word, Section or Chapter of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and Chapters shall not be affected and shall continue in full force and effect.

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17.38.050 Erosion Control Required.

(Amended by Ordinance No. 173979, effective March 1, 2000.) All public works projects constructed within the City of Portland must comply with Title 10, Erosion and Sediment Control Regulations.

17.38.055 River Restoration Program.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) BES and the Office of Healthy Working Rivers are authorized to develop administrative rules for implementation of a River Restoration Program including, but not limited to, a mitigation bank and in-lieu fee program for implementation of the Title 33 River Plan/North Reach Code provisions. BES and the Office of Healthy Working Rivers may also accept funds from in-lieu fees, mitigation bank credits, donations, program administrative fees, and other sources and may expend such funds for environmental restoration, enhancement and improvement activities.

17.38.060 Fill Mitigation In-lieu of Balanced Cut and Fill – the Johnson Creek Fill Mitigation Bank.

(Repealed by Ordinance No. 182144, effective September 26, 2008.)

Chapter 17.39

STORM SYSTEM DISCHARGES

(Chapter replaced by Ordinance No. 184898;
effective October 28, 2011.)

Sections:

- 17.39.010 Intent.
- 17.39.020 Definitions.
- 17.39.030 Allowable Discharges.
- 17.39.040 Prohibited Discharges.
- 17.39.050 Notification and Control of Illicit Connections and Discharges.
- 17.39.060 Discharge Permits and Other Authorizations.
- 17.39.070 Inspections.
- 17.39.080 Sampling.
- 17.39.090 Reporting Requirements.
- 17.39.100 Records Retention.
- 17.39.110 Enforcement.
- 17.39.120 Compliance Cases and Appeals.
- 17.39.130 Conflict.
- 17.39.140 Severability.

17.39.010 Intent.

The Bureau of Environmental Services (BES) is authorized to facilitate the development and management of the City's storm sewer and drainage system facilities to adequately convey, manage and protect the water quality of discharges of stormwater runoff. This Chapter applies to the City storm sewer and drainage systems as defined in this Chapter. This Chapter provides BES the authority to ensure these systems are operated in a manner that protects public health and the environment.

17.39.020 Definitions.

(Replaced by Ordinance No. 185397, effective July 6, 2012.) As used in Chapter 17.39:

- A.** "Capacity" means the flow volume or rate that a specific facility (e.g., pipe, pond, vault, swale, ditch, or drywell) is designed to safely contain, receive, convey, reduce pollutants from, or infiltrate to meet a specific performance standard.
- B.** "Clean Water Act (CWA)" is the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.).

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- C.** “Code of Federal Regulations (CFR)” means the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
- D.** “Director” means the Director of the Bureau of Environmental Services or the Director's designee.
- E.** “Discharge” means is any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking or placing of any material so that such material enters or is likely to enter a waterbody, groundwater or a public sewer and drainage system.
- F.** “Discharge Authorization (DA)” means a written approval by the Director which prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.
- G.** “Discharger” means any person who causes or permits a direct or indirect discharge to the City sewer and drainage system.
- H.** “Illicit Connection” means any connection to the City’s storm sewer and drainage system not approved by the City or not in compliance with a valid City permit.
- I.** “Illicit Discharge” means any discharge to the storm sewer and drainage system that is not composed entirely of stormwater and is not authorized under Sections 17.39.030 or 17.39.050.
- J.** “Interference” means a discharge that, alone or in conjunction with other discharges, inhibits or disrupts the normal operation of the City’s storm sewer and drainage system or contributes to a violation of any requirement of the City’s NPDES Municipal Separate Storm Sewer System Discharge Permit. This includes any increase in the magnitude or duration of a violation, any increase in cost due to damage to the system, and any requirement for specialized treatment of stormwater caused by such a discharge.
- K.** “National Pollutant Discharge Elimination System (NPDES)” means the Clean Water Act (40 CFR Part 122) regulations that require dischargers to control and reduce pollutants in discharges to waters of the United States.
- L.** “Pollutant” means an elemental or physical material that can be mobilized or dissolved by water or air and that could creates a negative impact to human health, safety, or the environment. Pollutant discharges into the City storm and drainage system may be prohibited or limited by this Chapter or administrative rules.

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- M.** “Process Wastewater” means any water which during manufacturing or processing comes into direct contact with or results from the production, use, or removal of raw material, intermediate product, finished product, by-product or waste product, including decant liquids.
- N.** “Representative Sample” means a sample that is collected by grab, composite or other technique that adequately reflects the quality of sediments or discharge for a specific area or entire site. Sampling shall be conducted in accordance with 40 CFR Part 136 or a method approved by EPA or BES.
- O.** “Storm Sewer and Drainage System” means a City conveyance or system of conveyances, including pipes, pumps, drainage ditches, constructed channels, groundwater-related disposal systems, underground injection control devices, stormwater management facilities, or storm drains, that is designed or used to collect and transport stormwater. “Storm sewer and drainage system” does not include natural streams, creeks, ponds, lakes, a combined sewer, or part of a Publicly Owned Treatment Works, as defined in 40 CFR 122.2.
- P.** “Stormwater” means water that originates as precipitation on a particular site, basin, or watershed.
- Q.** “Toxic Substance” means any chemical listed in Oregon’s water quality standards for toxic pollutant tables in OAR, Division 340-041-033; the CWA effluent guidelines list of toxic pollutants at CFR 401.15; or the toxic chemical release reporting specific toxic chemical listings at 40 CFR 372.65 at concentrations specified in those lists or, if no concentration is specified, at concentrations determined pursuant to BES Storm and Drainage Discharge Rules.

17.39.030 Allowable Discharges.

The following discharges are allowed to enter the City storm sewer and drainage system without notice to or authorization from the City unless required under administrative rules:

- A.** Stormwater that does not contain toxic substances and is not otherwise prohibited.
- B.** Non-stormwater discharges authorized by the City’s Water Pollution Control Facility (WPCF) Class V Underground Injection Control (UIC) or NPDES Municipal Storm Sewer System (MS4) Discharge permit, except for those discharges subject to the use of BMPs by administrative rule.
- C.** Discharges that comply with a DA or permit issued by the Director or DEQ.

17.39.040 Prohibited Discharges.

The following discharges to the City’s storm sewer and drainage system are prohibited:

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- A.** Any discharge in violation of the conditions of the discharger's NPDES or other permit or authorization.
- B.** Any discharge that is intentionally routed to City UIC systems.
- C.** Any discharge with any of the following characteristics or materials:
 - 1.** A pH outside the range of applicable water quality standards in OAR Division 340-041;
 - 2.** A visible sheen;
 - 3.** A visible discoloration including, but not limited to, those attributable to dyes and inks, except for non-toxic dyes used or approved by the City to investigate the potential source of an illicit connection;
 - 4.** Heat that could damage or interfere with any element of the City's storm sewer and drainage system or that causes or contributes to a violation of the receiving-water temperature standards;
 - 5.** Toxic substances at concentrations that cause or contribute to violations of in-stream water quality standards set by DEQ or that exceed remedial action goals defined in a DEQ or EPA Record of Decision for the protection of surface water or sediment;
 - 6.** Refuse, rubbish, garbage, discarded or abandoned objects, articles, or accumulations of discharges that contain visible floating solids;
 - 7.** A process wastewater, unless authorized to discharge under a DEQ permit;
 - 8.** A volume that causes or contributes to an exceedance of the planned capacity of the storm sewer and drainage system, as established by the Director;
 - 9.** Liquids, solids, or gases which, either alone or by interaction, could cause a fire or an explosion including: waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius (using test methods described by 40 CFR 261.21); or discharges which cause the atmosphere in any portion of the City's storm sewer and drainage system to reach a concentration of 10 percent or more of the Lower Explosive Limit per National Institute for Occupational Safety and Health standards;

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10. A substance that causes or may cause a nuisance, hazard, interference, obstruction or damage to the City's storm sewer and drainage system, City personnel, the general public, receiving waters, or associated sediments; or
11. Any substance that causes or contributes to a violation of the terms of the City's NPDES MS4 Discharge Permit or Water Pollution Control Facility (WPCF) for Class V UIC Permit or in-stream water quality standards set by the State of Oregon.

- D.** Existing Discharges. Dischargers found to violate Section 17.39.040 may be required to obtain a discharge permit or authorization or the discharge may be terminated regardless of past acceptance by the City.

17.39.050 Notification and Control of Illicit Connections and Discharges.

- A.** Notification by telephone must be provided to BES and other authorities as applicable for the following conditions:
1. Illicit Connections. Notice must be provided within twenty-four hours after discovery of an illicit connection to the City's storm sewer and drainage system.
 2. Illicit Discharges. Notice must be provided immediately after discovery of the illicit discharge. Written reports must also be submitted to the City within five days of discovery of an illicit discharge or as otherwise specified by a permit or a discharge authorization.
- B.** Control and Abatement. Dischargers shall immediately take all reasonable steps to minimize the effects of an illicit discharge to the City storm sewer and drainage system or any waters of the state. These actions may include cleaning the impacted public and private system components under City direction or performing additional monitoring to determine the nature and extent of the discharge.
- C.** Protection of City Systems. Dischargers shall eliminate or control direct or indirect system entry points that have the potential to allow spills or discharges into the City's storm sewer and drainage system. The Director may require dischargers to make structural modifications to their facilities, equipment, or drainage systems or to take other measures to safeguard operation of the City's storm sewer and drainage system.

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17.39.060 Discharge Permits and Other Authorizations.

- A.** A City discharge authorization or City permit is required for un-permitted discharges that would otherwise cause interference with or harm the City storm sewer and drainage system, contribute to a violation of the City's NPDES stormwater discharge permit, degrade the local receiving surface water or groundwater, or have a negative effect on human health or the environment.
- B.** A City discharge authorization request must be submitted and approved before non-routine or one-time discharges of materials except for those discharges that are allowed under Section 17.39.030.
- C.** A City permit request must be submitted and BES must provide approval or denial of the permit before continuous or routine discharge occurs of materials other than stormwater that are not allowed under Section 17.39.030. A discharger must apply for a City permit when required by BES either at the time of development application or at the time of discovery of a discharge that requires a permit or authorization per Subsection 17.39.060 A.
- D.** The discharger may be required to allow site inspections by BES to verify site conditions or submit additional information, reports and plans as part of the DA or City permit request, such as:

 - 1.** A Stormwater Pollution Control Plan (SWPCP), which describes site actions taken to prevent contamination of stormwater by materials stored, used or manufactured onsite;
 - 2.** An Accidental Spill Prevention Plan (ASPP), which describes actions taken to prevent accidental or incidental spills of pollutants from entering the City storm sewer and drainage system; or
 - 3.** Monitoring data to characterize the types and loads of pollutants in the discharges.
- E.** The Director shall provide the discharger written notice of approval or denial of the request to discharge and information on how to request further administrative review of the decision.
- F.** Any new or potential discharger identified through the City's development review process shall undergo a source control review. Such review shall identify any site controls, City permit, or DA submittals needed to approve and accept any new discharge.

17.39.070 Inspections.

- A. Right of Entry. To the full extent permitted by the law, the City has authority to enter all private and public premises at any time for the purpose of inspecting sources of potential or actual discharges to the City's storm sewer and drainage system and to perform any other lawful act required by or authorized under this Code or ordinances of the City, the Charter, or state or federal law. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices as necessary to conduct sampling, inspection, testing, monitoring and metering operations to determine compliance with the requirements of this Chapter. City representatives shall not be required to sign any type of confirmation, release, consent, acknowledgement or other type of agreement as a condition of entry.
- B. Conditions for Entry.
 - 1. The City representative shall present appropriate credentials at the time of entry.
 - 2. The City representative shall comply with routine safety and sanitary requirements of the facility or site to be inspected as provided by the facility operator at the time of entry. The facility operator shall provide the City representative with any facility-specific safety protective equipment necessary for entry.

17.39.080 Sampling.

The City may sample or require a discharger to provide a representative sample of any discharge, or any material intended to be discharged, for the purposes of characterization or to determine compliance with Section 17.39.040, applicable permit conditions, DEQ or EPA requirements, or City permit or authorization.

- A. Dischargers may submit monitoring data gathered for other purposes that also satisfies these requirements. Dischargers shall conduct sampling and analysis in accordance with 40 CFR Part 136 or other EPA- or BES-approved methods.
- B. All dischargers with continuous or routine discharges must provide the City access to a sampling manhole or other City-approved location upstream of the physical connection or discharge point into the City system.

17.39.090 Reporting Requirements.

- A. Reports. Dischargers may be required to submit reports or other technical information needed to determine compliance with this Chapter. Such reports may

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include evaluations of site conditions, visual observations of discharges, discharge sampling results, summaries of operational and maintenance activities, compliance schedules for implementing remediation activities, or other information as requested by the Director to characterize discharges and site conditions. The City may accept reports required by NPDES or other discharge permits. Reports shall be submitted in a timely manner as required by the Director.

- B.** Fraud and False Statements. Dischargers making false statements in any submittal, report or other document required by this Chapter or associated rules shall be subject to the enforcement provisions of this Chapter and any other applicable local and state laws and regulations.

17.39.100 Records Retention.

Dischargers subject to this Chapter shall maintain and preserve for no fewer than five years any records, books, documents, memoranda, reports, correspondence and document summaries relating to observation, sample collection and analysis conducted in order to comply with this Chapter or associated rules. All records that are the subject of any enforcement or litigation activities brought by the City shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

17.39.110 Enforcement.

- A.** Violations. Dischargers failing to comply with the requirements of this Chapter and associated rules may be subject to enforcement actions by the Director. Violations of this Chapter and associated rules include, but are not limited to:
- 1.** Discharges with any of the attributes of the prohibited discharge list of Section 17.39.040.
 - 2.** Failure to meet any requirement or condition of a discharge permit or authorization, including exceedances of a discharge limit, issued under the authority of this Chapter or associated rules.
 - 3.** Failure to comply with a permit or discharge authorization-related submittal schedule or a violation remediation schedule.
 - 4.** Failure to pay review fees or assigned penalties for violations.
- B.** Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to \$5,000 per day per violation. All civil penalty payments shall be deposited with the City Treasurer. Penalties and other charges

shall accrue interest from the date of initial City notice until the penalty is paid in full.

- C.** City Summary Abatement. A discharger who fails to correct any prohibited condition or to discontinue any prohibited activity may be subject to summary abatement by the City. In cases of imminent danger to human health, public safety, or the environment or continued noncompliance with City Code or associated rules, the Director may take any necessary action permitted by law to remedy the violation and remove the threat to public health and safety or the environment. Dischargers shall be solely responsible for paying the expenses incurred by the City in carrying out the abatement in conformance with this Chapter.
- D.** Termination of a Permit or Discharge Authorization. The Director may terminate a City-issued discharge permit or DA if, in the judgment of the Director:

 - 1. The discharge has the potential to endanger human health, public safety or the environment or threatens to interfere with the operation of the City storm sewer and drainage system;
 - 2. The NPDES permit, City permit or authorization was obtained by misrepresentation of any material fact or lack of full disclosure;
 - 3. The discharger violates any requirement of this Chapter or the applicable discharge permit or authorization; or
 - 4. The termination is directed by a court of competent jurisdiction.

The Director may reinstate discharge privileges based on confirmation that the discharge complies with this Chapter and associated rules and any outstanding penalties, fees or costs due the City have been paid.
- E.** Cost Recovery. The Director may recover all reasonable costs incurred by the City which are attributable to or associated with violations of this Chapter.
- F.** Nothing in this Chapter shall be construed to impose liability on the City for any injury or damage resulting from the failure of any person to comply with the provisions of this Chapter.

17.39.120 Compliance Cases and Appeals.

- A.** City Code Compliance. The City shall take all reasonable steps to resolve compliance issues including, but not limited to, the following:

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1. **Administrative Review.** Dischargers subjected to enforcement under this Chapter may request an administrative review of a decision of the Director. If the discharger makes no request within the timeframe specified in the City violation notice, the City shall issue a final determination.
 2. **Final Determination.** Dischargers who fail to comply with the terms of a BES final determination shall have violated this Chapter. The final determination shall be the basis for Code compliance proceedings before the City Code Hearings Officer pursuant to Title 22 of the City Code.
 3. **Code Compliance Hearings.** Dischargers shall receive notice of the deadlines and procedures for requesting a hearing with the City Code Hearings Officer. The Code Hearings Officer shall hear evidence from both the discharger and the City on whether the City followed established procedures for requiring compliance with this Chapter and associated rules. The Code Hearings Officer's decision is final.
- B. Discharger-Initiated Appeals.** Dischargers may initiate appeals to the Code Hearings Officer per City Code Title 22 only on the following issues:
1. **Violation.** The discharger may appeal the determination of a violation of this Chapter or associated rules.
 2. **Enforcement Action.** The discharger may appeal the type of enforcement action taken by the City.
 3. **Penalty.** The discharger may appeal the type of penalty imposed by the City.

17.39.130 Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.39.140 Severability.

If any provision, paragraph, word or section of this Chapter or in rules adopted hereunder is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

Chapter 17.45

ADVERTISING ON BUS BENCHES

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Sections:

- 17.45.030 Advertising Bench Allowed.
- 17.45.040 Fee.
- 17.45.050 Revocation.
- 17.45.060 Authority.

17.45.030 Advertising Bench Allowed.

(Amended by Ordinance No. 185397, effective July 6, 2012.) 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 back of the through pedestrian zone and between the curb closest to the street center line and front of the through pedestrian zone 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 17.76

FUEL TANKS

Sections:

- 17.76.010 Permit Issuance.
- 17.76.020 Conditions.
- 17.76.030 Form of Permit.

17.76.010 Permit Issuance.

(Amended by Ordinance No. 140207, effective Aug. 1, 1975.) Whenever, in the opinion of the Commissioner In Charge of Public Works, and the City Engineer, the installation of a fuel tank in the street area with not interfere with the present use or with any contemplated plans for the early use of any street, a permit may be granted by the City Engineer if approved by the Commissioner of Public Works. The permit shall then be issued to the owner or occupant of the lot or tract adjacent to the street to be occupied by the fuel tank, upon payment of a fee as prescribed in Section 17.24.020.

17.76.020 Conditions.

The applicant for fuel tank installation in the street area shall sign an application for permit in which he agrees to accept the revocable permit subject to its terms and limitations, saving the City harmless from damages both to himself and to all persons claiming or to claim therefor.

17.76.030 Form of Permit.

(Amended by Ordinance No. 185397, effective July 6, 2012.) The permit when issued shall be in substantially the following form:

REVOCABLE PERMIT

A revocable permit is hereby granted to(owner or occupant) of Lot, Block, ... Addition to install and maintain a tank for the storage of fuel oil in Street between Street and. Street, being in that particular area lying between the curb line closest to the street centerline and the line of said street, abutting the above described property.

This permit is for the use of the street area only and shall not exempt the grantee from securing a permit from the Fire Marshal and complying with all requirements of the fire regulations, from taking out a permit from the City Engineer to open the street, or from taking out licenses or permits required by any existing ordinances for any operation or construction carried on under the permit hereby granted.

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The permit granted hereunder is revocable at any time at the pleasure of the Council. No expenditure of money thereunder, lapse of time, or other act or thing shall operate as an estoppel against the City or be held to give the grantee any vested or other right. Upon revocation, the grantee shall within 30 days discontinue the use of the tank and shall put the portion of the street affected by said tank in a condition as good as the adjacent portion of the street, all of which shall be done as directed by and to the satisfaction of the City Engineer.

The grantee herein assumes full responsibility for all accidents or damage which may occur in connection with the installation of the tank, and agrees to hold the City, the City Engineer, and each and all the officers and employees of the City free and harmless from any claims for damages to persons or property which may be occasioned by the installation or its maintenance.

Chapter 17.80

PLATS AND DEDICATIONS

Sections:

- 17.80.010 Approval by Director of the Bureau of Transportation.
- 17.80.020 Appeal.

17.80.010 Approval by Director of the Bureau of Transportation.

(Amended by Ordinance Nos. 184046 and 184957, effective November 25, 2011.) 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 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 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 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.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Any person aggrieved by the refusal of the Director of the Bureau of Transportation 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 17.102

SOLID WASTE & RECYCLING COLLECTION

(Chapter replaced by Ordinance. No. 182190,
effective October 10, 2008.)

Sections:

- 17.102.010 Declaration of Policy.
- 17.102.020 Definitions.
- 17.102.030 Authority of Director to Adopt Rules.
- 17.102.040 General Requirements for Franchisees and Permittees.
- 17.102.050 Clean and Efficient Fleet Practices for Franchisees and Permittees.
- 17.102.060 Fees Credited to Solid Waste Management Fund.
- 17.102.070 Fees As a Debt, Enforcement and Collection.
- 17.102.080 Daytime Prohibition of Downtown Garbage Collection.
- 17.102.090 Assessments for Infractions.
- 17.102.100 Right of Appeal and Payment of Assessments.
- 17.102.110 Divulging Particulars of Reports Prohibited.
- 17.102.120 Franchise Administration.
- 17.102.130 Franchise Size Limitation.
- 17.102.140 Residential Collection Franchise Required.
- 17.102.150 Exceptions to Residential Franchise Requirement.
- 17.102.160 Forfeiture and Replacement.
- 17.102.170 Residential Recycling Services.
- 17.102.180 Franchise System Evaluation.
- 17.102.190 Residential Solid Waste and Recycling Rates and Charges.
- 17.102.200 Large Size Container Service to Residential Customers.
- 17.102.210 Commercial Collection Permit Required.
- 17.102.220 Exceptions to Commercial Collection Permit Requirement.
- 17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.
- 17.102.240 Revocation or Suspension of Commercial Collection Permits.
- 17.102.250 Commercial Tonnage Fee.
- 17.102.260 Registration Required for Independent Commercial Recyclers.
- 17.102.270 Businesses and Multifamily Complexes Required to Recycle.
- 17.102.280 Inspections to Determine Compliance with Business Recycling Requirements.
- 17.102.290 Storing solid waste, recycling or compostable containers on the right of way prohibited.
- 17.102.295 Separation of Recyclables, Compost and Solid Waste.
- 17.102.300 Definitions for Ban of Polystyrene Foam Food Containers (PSF).
- 17.102.310 Prohibition on Certain PSF Uses.
- 17.102.320 Exemptions for PSF Use.
- 17.102.330 Enforcement and Notice of Violations for PSF Ban.

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17.102.340 Fines for PSF Ban.

17.102.010 Declaration of Policy.

It is the policy of the City of Portland to reduce the amount of solid waste, both generated and disposed of, by promoting aggressive waste prevention and recycling activities. The City shall promote the development of environmentally and economically sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable material. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable and compostable materials within the City. In carrying out this policy, the goals of this Chapter are:

- A.** To promote sustainability of the system of solid waste and recycling collection, by seeking to maximize efficiency, equity and economic vitality, improve worker safety and reduce environmental and human health impacts over the entire life cycle of the materials.
- B.** To set and achieve recycling goals for Portland that are among the highest in the nation.
- C.** To achieve a recycling goal of 75 percent by 2015 and promote highest value use of recovered materials.
- D.** To reduce per capita waste generation below 2005 levels by the year 2015.
- E.** To target reductions in toxic waste, to minimize its harmful effects and to reduce greenhouse gas emissions.
- F.** To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and compostable materials.
- G.** To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.
- H.** To establish and enforce solid waste, recyclable and compostable material collection standards to ensure uniform, cost effective and high quality service delivery to all residential customers.
- I.** To establish rates for residential waste collection which are fair to the public, encourage waste reduction, and promote safe, efficient collection.
- J.** To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.

- K.** To enhance solid waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors by ensuring that comprehensive recycling systems are provided at every establishment not covered by the residential franchise, and that owners of the establishments encourage extensive use of those systems by all employees.
- L.** To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of solid waste reduction, recycling and collection.

17.102.020 Definitions.

(Amended by Ordinance No. 182671, effective May 15, 2009.) For purposes of Chapter 17.102, and rules adopted thereunder, the following terms shall be understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter shall have meanings commonly accepted in the community.

- A.** **“Administrative Rule”** means all rules promulgated under Section 17.102.030 of this Chapter.
- B.** **"Approved Residential Recycler"** means a person that has been granted approved residential recycler status by the Director. Approved residential recycler includes any employees or other persons authorized to act on behalf of the approved residential recycler.
- C.** **“Assessment”** means a civil penalty assessed for an infraction as provided in Chapter 17.102 or the franchise.
- D.** **“Assigned Territory”** means an area within the City in which only a franchisee designated by the City may collect solid waste and recyclable material from residential customers.
- E.** **“Business”** means any commercial entity, including industrial and institutional, but not including multifamily complexes or commercial entities that occupy 50 percent or less of the floor area of a residence.
- F.** **“City”** means the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of any Intergovernmental Agreement or law.
- G.** **“Collect” or “Collection”** means to accept, accumulate, store, process, transport, market or dispose of.

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- H.** **“Commercial”** means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units on a single tax lot.
- I.** **“Commercial Collection”** means the collection of solid waste, recyclable and compostable materials in exchange for compensation from:
1. A non-residential source; or
 2. A multifamily residence of five or more dwelling units located on a single tax lot.;
- J.** **“Compensation”** means:
1. Any type of consideration paid for collection service, including, without limitation, rent or lease payments and any other direct or indirect provision of payment of money, goods, services or benefits by owners, tenants, lessees, occupants or similar persons;
 2. The exchange of services between persons; and
 3. The flow of consideration from the person owning or possessing the solid waste recyclable or compostable material to the person providing collection service or from the person providing collection service to the person owning or possessing the solid waste recyclable or compostable material.
- K.** **"Compostable Material"** and **“Compostable”** means yard debris, food scraps and food soiled paper when source separated for controlled biological decomposition. Compostable material shall not include food soiled paper containing plastic or other materials that inhibit controlled biological decomposition.
- L.** **"Composting"** means the series of activities, including collection, separation, and processing, by which compostable materials are recovered from or otherwise diverted from the solid waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.
- M.** **“Customer”** when used to refer to commercial collection service, means a person that has arranged for the collection of solid waste, recyclable or compostable materials, excluding residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service.

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- N.** **“Customer”** when used to refer to residential collection service means any person who receives solid waste, recycling or yard debris collection service at a residence (four-plex or smaller) in a franchise territory or any non-residential customer who qualifies for collection services as provided in the franchise granted by Ordinance No. 181666. The customer need not be the person billed for such service. For rental properties where the owner of the property is required to subscribe for service, the owner shall be considered the customer.
- O.** **“Director”** means the Director of the City’s Bureau of Planning and Sustainability or his or her authorized representative, designee or agent.
- P.** **“Food Soiled Paper”** means paper products that cannot be recycled into paper products or that have been in contact with organic materials to the degree that they would not be able to be recycled into paper products. Food soiled paper includes, but is not limited to, used paper table covers, used napkins, and waxy corrugated cardboard. Food soiled paper includes otherwise recyclable paper that has been in contact with food to the degree that it is not recyclable into paper products, but does not include unsoiled cardboard boxes, newspaper or office paper.
- Q.** **“Food Scraps”** means all waste from meats, fish, and vegetables, which attends or results from the storage, preparation, cooking, handling, selling or serving of food for human consumption. Food scraps includes, but are not limited to, excess, spoiled or usable food or dairy products, meats, vegetable and meat trimmings, grains, breads and dough, incidental amounts of edible oils, and organic waste from food processing. Food scraps does not include large amounts of oils and meats which may be collected for rendering, fuel production or other reuse applications.
- R.** **“Food Waste Generating Business”** means businesses and institutions whose waste is composed of a large amount of food scraps and food soiled paper. It includes but is not limited to restaurants, grocery stores, or food markets, hotels with catering operations, institutions with cafeterias, caterers, central kitchens or commissaries, bakeries, produce wholesalers and food processors. It does not include businesses that produce only incidental amounts of food waste in the course of doing business, such as from employee lunches.
- S.** **“Franchise”** means a franchise for the collection of residential solid waste, recyclable materials and yard debris, granted by Ordinance No. 181666, and as amended by subsequent ordinances.
- T.** **“Franchisee”** means a business that has been granted a franchise by Ordinance No. 181666 and subsequent amending ordinances. Franchisee includes any employees or other persons authorized to act on behalf of the franchisee.

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Franchisee has a meaning identical to that of “grantee” as used in the franchise. A franchisee holds a single franchise for collection service in any and all of its franchise territories, including any territories transferred from other franchisees as approved by the Portland City Council, subsequent to Ordinance No. 181666, and as amended by subsequent ordinances.

- U. **“Franchise Territory”** means an area within the City in which only a person granted a franchise by the City may collect residential solid waste, recyclable materials or yard debris, from residential customers. A single franchisee may serve more than one franchise territory.
- V. **“Independent Commercial Recycler”** means a person who collects only recyclable and/or compostable materials from non-residential sources for the sole purpose of recycling or composting, and who does not collect solid waste.
- W. **“Infraction”** means a failure to comply with Portland City Code Chapter 17.102, the franchise, or the administrative rules promulgated thereunder, as applicable.
- X. **“Metro”** means the metropolitan service district responsible for regional solid waste management and planning within Clackamas, Multnomah and Washington Counties.
- Y. **“Multifamily Complex”** or **“Multifamily”** means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes.
- Z. **“BPS”** means the City’s Bureau of Planning and Sustainability.
- AA. **“Permittee”** means any person granted a commercial collection permit under Section 17.102.210 of this Chapter.
- BB. **“Person”** means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.
- CC. **“Recyclable Material”** and **“Recyclable”** includes, but is not limited to, newspaper, scrap paper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, tin cans, magazines, aseptic packaging, coated paper milk cartons, steel aerosol cans, plastic bottles, office paper, cooking grease, wood, rubble and other materials as may be designated by the City.

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- DD.** “**Recycling**” means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream for use in the following:
1. In the form of raw materials in the manufacture of new products other than fuel.
 2. As fuel in the case of source separated wood waste which has no other material use.
- EE.** “**Residence**” means any dwelling unit that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Residence includes multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on a single tax lot. Residence also includes dwelling units used by fraternities or sororities. Residence does not include any multifamily complex as defined in this Section, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does residence include certified or licensed residential adult foster care homes. Residence does not include any dwelling where over 50 percent of the entire building is being used for business purposes. Agreements between owners of residences purporting to provide for the collection of solid waste and recyclable on a combined basis shall not alter the status of each dwelling unit as a residence.
- FF.** “**Resident**” means any person living in a residence.
- GG.** “**Residential**” means of or pertaining to a residence.
- HH.** “**Self Haul, Commercial**” when used in reference to solid waste, recyclables or compostables generated by a commercial entity, means the collection and transportation of material from a commercial entity where an owner or employee of the entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function.
- II.** “**Solid Waste**” has the meaning given in ORS 459.005(24) (2007), but does not include the following materials:
1. Sewage sludge, septic tank and cesspool pumpings or other sludge;
 2. Discarded or abandoned vehicles;

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JJ. “Source Separate” means that the person who last used recyclable or compostable material separates the material from solid waste and keeps the recyclable or compostable material separate from solid waste.

KK. “Yard Debris” means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and prunings of no greater than four inches in diameter or 36 inches in length. Large branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, animal waste, food and household solid waste are not considered yard debris.

17.102.030 Authority of Director to Adopt Rules.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** The Director is hereby authorized to administer and enforce the provisions of this Chapter.
- B.** The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.
 - 1.** Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.
 - 2.** During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations; taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
 - 3.** Notwithstanding paragraphs 2 and 3 of this Section, an interim rule may be adopted by the Director without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of an interim rule, the Director shall send notice of

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the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.

- a. Neighborhood associations recognized by the City Office of Neighborhood Involvement,
- b. District Coalitions recognized by the City Office of Neighborhood Involvement,
- c. Business District Associations identified by the City Office of Neighborhood Involvement,
- d. Persons on the BPS list of parties interested in administrative rules, and
- e. Franchisees and permittees,

17.102.040 General Requirements for Franchisees and Permittees.

All franchisees and permittees must comply with applicable federal law, statutes of the State of Oregon, ordinances of Metro or the City and rules and regulations promulgated thereunder.

17.102.050 Clean and Efficient Fleet Practices for Franchisees and Permittees.

(Replaced by the Ordinance No. 185449, effective July 21, 2012.) The Director is authorized to draft regulations to protect the public health and the environment. This can include requiring the use of a blend of biodiesel fuel in any collection vehicle with a diesel engine and requiring regular replacement of all collection vehicles used by franchisees or permittees within the City.

- A. All collection vehicles with a diesel engine shall use a blend of biodiesel fuel as specified by the Director, consistent with the requirements set forth in Chapter 16.60.
- B. Fleet Replacement-Residential.
 - 1. By January 1, 2016, all residential vehicles shall have engines that are 12 years old or newer. For purposes of this Section, "residential vehicles" are vehicles used by franchisees for residential solid waste, recycling, or composting collection at least 50 percent of their hours or miles. "Residential vehicles" do not include back-up vehicles used less than 20 percent of a full-time vehicle's hours or miles.

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2. Diesel Particulate Filter Retrofits. Residential vehicles that have been retrofitted with a Diesel Particulate Filter through a Metro grant-funded program will be considered to have 2007 model year engines and will not be required to be replaced until December 31, 2019.
3. Residential Fleet Replacement Plan. Franchisees shall prepare and annually update a Residential Fleet Replacement Plan (Plan) that complies with the following deadlines:
 - a. The Plan shall provide for the replacement of all residential vehicles with engines older than the 2004 model year by December 31, 2015.
 - b. The Plan shall provide for replacement of no more than five residential vehicles with engines older than the 2004 model year between January 1, 2015 and December 31, 2015.

The Plan must be approved by the Director.

C. Fleet Replacement-Commercial.

1. By January 1, 2018, all commercial vehicles shall have engines that are 12 years old or newer. For purposes of this Section, "commercial vehicles" are vehicles used by permittees for commercial collection more than 50 percent of their hours or miles. "Commercial vehicles" do not include back-up vehicles used less than 20 percent of a full-time vehicle's hours or miles.
2. Diesel Particulate Filter Retrofits. Commercial vehicles that have been retrofitted with a Diesel Particulate Filter through a Metro grant-funded program will be considered to have 2007 model year engines and will not be required to be replaced until December 31, 2019.
3. Commercial Fleet Replacement Plan. Permittees that have more than five commercial vehicles with engines older than the 2006 model year shall prepare a Commercial Fleet Replacement Plan (Plan). The Plan shall provide for the replacement of all commercial vehicles with engines older than the 2006 model year by December 31, 2017. The Plan must be approved by the Director.

17.102.060 Fees Credited to Solid Waste Management Fund.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. All fees, assessments and interest received by the Bureau of Planning and

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Sustainability with respect to solid waste collection or disposal shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund.

- B.** Monies deposited into the Solid Waste Management Fund shall be used for administration, implementation and operation of solid waste, recycling, composting and sustainable development programs, consistent with all applicable constraints on use of funds. BPS may spend or apply such fees and charges to implement and administer solid waste, recycling, composting and sustainable development policies approved by the Council.
- C.** The proceeds from the City's sale of a forfeited franchise shall be deposited with the City Treasurer and credited to the Solid Waste Management Fund. Such proceeds shall be used to offset the City's costs of the process of replacing a franchisee, including its costs for providing any necessary temporary collection services, and to offset program costs to the public.

17.102.070 Fees As a Debt, Enforcement and Collection.

- A.** All fees, assessments and interest imposed by this Chapter shall be a debt due and owing to the City of Portland and may be collected by civil action in the name of the City of Portland. Any fees and assessments remaining unpaid after the due date shall accrue interest at 1 percent per month, compounded daily from the due date. In addition, the Director may revoke, suspend or deny issuance of any commercial collection permit to permittees who have not paid commercial permit or tonnage fees or infraction assessments by the deadlines provided in this Chapter or in administrative rules adopted pursuant to this Chapter.
- B.** Fees, assessments and interest shall be enforced and collected by the Director. The Director may waive or reduce any assessments for good cause, according to and consistent with written policies. The Director may refer collection and enforcement to another agency of the City.

17.102.080 Daytime Prohibition of Downtown Garbage Collection.

No person, whether acting as private citizen, principal, employee, agent, franchisee or permittee shall transport any refuse through streets in the district bounded by SW Oak Street, SW First Avenue, SW Yamhill Street and SW Tenth Avenue, except between the hours of 10 p.m. and 10 a.m. or when otherwise authorized by the City Engineer, a city police officer, or he Director.

17.102.090 Assessments for Infractions.

- A.** The Director may impose assessments as follows:
 - 1.** A first violation of this Chapter may be subject to an assessment of up to

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\$500.

2. A second violation of this Chapter by the same person may be subject to an assessment of up to \$1,000.
3. Third and subsequent violations of this Chapter by the same person may be subject to an assessment of up to \$1,500.
4. Assessments may be imposed on a per month, per day, per incident, per class or such other basis as the Director may determine as appropriate based upon the nature of the infraction.

B. The Director shall consider the following criteria in determining the amount of assessments to be imposed under this Section:

1. The nature and extent of the person's involvement in the violation;
2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
3. Whether the violation was isolated and temporary, or repeated and continuous;
4. The length of time from any prior violations;
5. The magnitude and seriousness of the violation;
6. The costs of investigation and remedying the violation;
7. Whether any criminal prosecutions have occurred in regard to the violations; and
8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

17.102.100 Right of Appeal and Payment of Assessments.

(Amended by Ordinance No. 184288, effective January 7, 2011.)

- A.** Any person receiving a Notice of Assessment shall, within ten days of issuance of the notice either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request shall stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of the assessment

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is ordered, such payment must be received by the Director or postmarked within 15 calendar days after the order becomes final.

- B.** A person may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if the person receives:
 - 1.** A written denial of an application for a commercial collection permit;
 - 2.** Any written suspension or revocation of a commercial collection permit.
- C.** A business or property owner may appeal to the Code Hearings Office in accordance with Title 22 of the City Code if they receive a written denial of an application for a limited term extreme economic hardship exemption from the Containers in the Right of Way rules.
- D.** Any person requesting an appeal to the Code Hearings Office in accordance with procedures set forth in Chapter 22.10 of the City Code may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
 - 1.** If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.110 Divulging Particulars of Report Forms Prohibited.
(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** Except as otherwise required by law, it shall be unlawful for the Bureau of Planning and Sustainability or any officer, employee, or agent of the City, to divulge, release or make known in any manner:
 - 1.** Any information submitted or disclosed to the City under Section 17.102.250; or,
 - 2.** Any information submitted or disclosed to the City by solid waste collectors regarding past hazardous waste remedial action surcharges.
- B.** Nothing in this Section shall be construed to prohibit:
 - 1.** The disclosure of the names and addresses of any persons to whom permits have been issued; or
 - 2.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding any individual permittee.

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17.102.120 Franchise Administration.

(Amended by Ordinance No. 182671, effective May 15, 2009.) Notwithstanding Section 3.114.020, the Bureau of Planning and Sustainability shall be responsible for administration of residential collection franchises.

17.102.130 Franchise Size Limit.

(Amended by Ordinance No. 184224, effective December 10, 2010.)

- A.** No franchisee shall serve residential customers greater than 40 percent of the residential customer base, as determined on a quarterly basis. For purposes of this Section, the Bureau of Planning and Sustainability will calculate the residential customer base and the residential customer cap using the most recent Quarterly Residential Customer Count Report, and shall keep this calculation on file for public reference.
- B.** No franchisee shall be a subsidiary corporation of another franchisee.

17.102.140 Residential Collection Franchise Required.

- A.** No person may collect residential solid waste, recyclable material or yard debris, within the City without having obtained a franchise from the City, except as provided in 17.102.150 or 17.102.170 of this Chapter.
- B.** Having obtained a franchise for residential solid waste, recyclable material and yard debris collection from the City, no person shall provide or offer to provide such collection in an area within the City other than the assigned territory for which the franchise was issued.
- C.** No person shall accumulate, store collect, transport, dispose of or resource recover solid waste, recyclable materials or yard debris, except in compliance with this Chapter, other city ordinances and regulations, and state laws dealing with solid waste management.
- D.** Nothing in this section shall prohibit the City from withdrawing certain solid waste, recyclable materials or yard debris collection services by amendment of this Chapter on the basis of finding that such change is appropriate.
- E.** No person other than an approved residential recycler may remove recyclable materials or yard debris that are in or next to a residential recycling or yard debris container set out at a residence.
- F.** As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of rental residences must arrange for

collection by a franchisee.

17.102.150 Exceptions to Residential Franchise Requirement.

- A.** A franchise is not required for the collection or transportation of residential solid waste, recyclable materials or yard debris by the following persons:
- 1.** Persons transporting solid waste, recyclable materials, or yard debris, collected outside the City;
 - 2.** Organizations which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 (2007) and who collect residential recyclable materials or yard debris without charge to the person who generates those recyclable materials or yard debris;
 - 3.** A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
 - 4.** Landscapers, gardeners, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
 - 5.** Persons collecting and transporting waste produced by that person, except for waste produced by a tenant at a rental dwelling. For purposes of this Subsection, solid waste produced by a tenant, licensee, occupant or similar person is produced by that person and not by the landlord;
 - 6.** Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
 - 7.** Persons transporting only reusable beverage containers as defined in ORS 459A.725 (2007);
 - 8.** Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and,
 - 9.** Persons exclusively collecting recyclable materials or yard debris, from non-residential sources.
- B.** An organization is not required to have a franchise for the acceptance, storage or

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transportation of recyclable materials or yard debris if those materials are accepted and stored at a depot or depots which accept recyclable material or yard debris without a charge to the generator of that recyclable material or yard debris.

17.102.160 Forfeiture and Replacement.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** In the event that the Director finds grounds for declaring a forfeiture, according to the terms of the franchise awarded by Ordinance No. 181666 and as amended by subsequent ordinances, the Director shall make a recommendation for Council action on the matter, following procedures specified in the BPS's adopted rules.
- B.** In preparing for the transfer of a forfeited franchise to another party, the Director shall solicit applications from current franchisees and from other parties who have given a written notice of their interest following a public notification. The Director shall determine the applicants' qualifications to assume the franchise responsibilities. The Director is authorized to then use a lottery in selecting among qualified applicants. In addition, the Director may conduct an appraisal of the value of the forfeited franchise. The lottery winner(s) shall then be offered the opportunity to purchase the franchise from the City within a specified time period at the appraised value.
- C.** In cases where a franchisee abruptly ceases to provide collection service, and there is insufficient time to conduct an appraisal and permanently transfer a franchise, the Director may recommend that the Council appoint a temporary service provider. If the Council makes such an appointment, it may also guarantee a minimum level of revenue to that company, in order to encourage companies who would not otherwise be willing to assume this responsibility on a short-term basis. Such minimum level of revenue would be achieved by the City's supplementing revenues received by the temporary service provider from its temporary customers.

17.102.170 Residential Recycling Services.

- A.** No person shall provide residential recycling collection without first applying for and receiving approval as an approved residential recycler.
- B.** To have status as an approved residential recycler an applicant must receive the City's approval of recycling collection and processing plans prior to initiation of collection service, and at subsequent times as provided in the administrative rules.
- C.** To receive approval as an approved residential recycler, an applicant shall submit a recycling collection and processing plans on forms provided by the Director and shall include, at a minimum, the following information:

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1. Number of residential households to be served;
 2. Description of recycling collection equipment;
 3. Address and City zoning classification of all processing/storage sites that relate to collection services provided in the City;
 4. Description of all processing and storage activities that relate to collection services provided in the City;
 5. List of markets where each recyclable material will be sold;
 6. List of the number of staff, their positions and full-time equivalent (FTE) for each;
 7. Address and phone number of office;
 8. Cost of recycling collection and processing equipment, the financial institution used and type of financing obtained; and
 9. Any subcontracted collection services, including the names of the providers, description of the services provided and the number of customers served.
 10. Written consent of the franchisee in whose territory the applicant seeks to provide collection service.
 11. Other information as deemed relevant and necessary by the Director.
- D.** The Director shall review the recycling collection and processing plans submitted by an applicant to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and which are capable of meeting administrative rule standards for residential recycling service delivery. The Director shall notify the applicant of the decision on his/her status as an approved residential and any recommended modifications if approval is not given. Approved residential recyclers shall use recycling containers that meet the Director's specifications.
- E.** An applicant's failure to receive the Director's approval of a plan shall result in denial of the City's permission for that applicant to provide recycling collection service and the appointment of another approved residential recycler by the Director to provide recycling collection service to those residential customers.

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17.102.180 Franchise System Evaluation.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** Periodically the Director shall prepare and submit a report to the City Council on the status and performance of the franchise collection system. The report shall comment on progress toward achievement of the relevant goals identified in Section 17.102.010 and as otherwise described in BPS's budget documents.
- B.** Commencing at least five years prior to the expiration of the franchise term, the City Council shall evaluate the franchise system to determine if the system is achieving waste reduction, increased recycling, and cost-effective collection service. Such evaluation shall include an opportunity for public discussion and comment.

17.102.190 Residential Solid Waste and Recycling Rates and Charges.

For all service levels of franchised residential collection, rates and charges shall be as set forth in Figures 6 and 6-1 published at the end of Title 17.

17.102.200 Large Size Container Service to Residential Customers.

- A.** Any residential putrescible waste collected in containers exceeding two yards capacity shall be emptied within seven days of the empty container being placed at the residence.
- B.** Commercial permittees are prohibited from providing collection of any putrescible waste more than four times in a 365-day period to residential customers without the express written permission of the franchisee in whose territory the collection would be occurring.
- C.** Within the City, franchisees are prohibited from providing containers larger than two cubic yards which are emptied more than four times in a 365-day period to residential customers outside their franchise territory.

17.102.210 Commercial Collection Permit Required.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A.** No person shall provide commercial collection of solid waste, compostables and recyclable material within the City without having a currently valid commercial collection permit from the Bureau of Planning and Sustainability, except as provided in Section 17.102.220. Permits shall be issued annually, with the permit being valid for the period beginning July 1 and ending June 30. No expenditure of money, lapse of time or other act or thing, shall give the permittee any vested rights or other property rights.

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- B.** The Director may impose conditions upon the issuance of a permit which are necessary to implement the provisions of this Chapter or administrative rules promulgated under Section 17.102.030. Conditions shall include but not be limited to:
- 1.** Permittees must comply with the provisions of this Chapter and administrative rules promulgated under Section 17.102.030.
 - 2.** If a permittee provides solid waste collection services to a customer, the permittee must offer recycling collection services to the customer. The permittee shall also offer compostable material collection services to a customer that is a food scrap generating business subject to the requirements of Subsection 17.102.270 A.1.c.
 - a.** Permittees may provide recycling and compostable material collection services either directly or through third-party providers. Where a permittee provides such services through a third party provider, the permittee shall be responsible for reporting to the City the quantities of all materials collected by that provider on its behalf within the City.
 - b.** In providing recycling and compostable material collection services, permittees shall use containers that comply with the City's administrative rules.
 - 3.** If the Director determines that a permittee is delivering as waste, loads containing significant amounts of recyclable materials to a transfer station, reload, or landfill, the Director shall work with the permittee to identify customers on the routes serviced in those loads for the purpose of providing customer outreach, assistance and education.
 - 4.** Permittees may charge a person who source separates recyclable material - and makes it available for reuse or recycling - less, but not more, for collection and disposal of solid waste and collection of recyclable material than the collection service charges a person who does not source separate recyclable material. This subsection does not affect charges for the collection of food scraps and food soiled paper.
- C.** Any person who provides commercial collection of solid waste within the City without a current commercial collection permit from the City shall be subject to an assessment as provided by Section 17.102.090.
- D.** No person who is not authorized by the customer may remove recyclable material that is set out by the customer for recycling.

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- E.** As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of multifamily complexes must arrange for collection by a permittee.

17.102.220 Exceptions to Commercial Collection Permit Requirement.

A commercial collection permit is not required for the collection or transportation of commercial solid waste by any of the following:

- A.** Persons transporting solid waste collected outside the City;
- B.** A contractor employed to demolish, construct or remodel a building or structure, including, but not limited to, land clearing operations and construction wastes, when collecting or transporting wastes created in connection with such employment;
- C.** Landscapers, gardeners, farmers, tree service contractors, janitors or renderers when collecting or transporting wastes created in connection with such employment;
- D.** Persons collecting or transporting only waste tires under a valid waste tire storage or carrier permit pursuant to OAR Chapter 340;
- E.** Persons transporting only reusable beverage containers as defined in ORS 459A.725 (2007);
- F.** Federal or state agencies that collect, store, transport and dispose of solid waste or those who contract with such agencies to perform the service, but only insofar as the service is performed by or for such agencies; and
- G.** Persons exclusively collecting recyclable or compostable materials from anyone other than residential customers.

17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.

(Amended by Ordinance No. 184288, effective January 7, 2011.)

- A.** Applications for commercial collection permits required by Chapter 17.102 shall be submitted to the Director. The Director shall prepare application forms and make them available upon request.
- B.** Each application for a commercial collection permit shall be accompanied by a nonrefundable fee of \$350.

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- C.** An applicant for a commercial collection permit shall submit an application that sets forth the following information:
- 1.** The name, address and telephone number of the business or proposed business;
 - 2.** Whether the applicant is organized as a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business;
 - a.** If a partnership, the application must set forth the names, addresses and telephone numbers of each general or managing partner.
 - b.** If a corporation, or limited liability company, the application must set forth the corporate or company name and the names, addresses and telephone numbers of every person owning more than twenty percent of the business;
 - c.** If the business is organized in some other form, the application must set forth the name, address and telephone number of the designated contact person for the business.
 - 3.** A City of Portland business license number.
 - 4.** A signed statement that the permittee shall hold harmless the City of Portland, its officers and employees and shall indemnify the City of Portland, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the commercial collection permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide General Liability coverage insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insures the City of Portland, their officers and employees with respect to the permittee's activities carried on under the terms of the commercial collection permit, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the Auditor.

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5. Any other information that the Director may reasonably feel is necessary to accomplish the goals of this Chapter.
- D. Applications shall contain a written declaration, verified by the applicant, to the effect that the statements made therein are true.
- E. Applications shall contain written demonstration of adequate staff, equipment and collection vehicles necessary to provide services as required under Subsection 17.102.210 B.2.
- F. The Director may investigate and verify data reported in the permit application.
- G. The permittee shall provide written notice to the Director within 10 days of any changes in the information provided in the application that occurs after the application is submitted.
- H. The Director shall approve issuance of a commercial collection permit to the applicant after payment of the required fee, completion of the application form and following an evaluation of the information provided with the application. The Director may deny the issuance of a commercial collection permit to an applicant under the following conditions:
 1. The permit application contains falsehoods or facts that cannot be verified;
 2. The applicant has failed to pay fees, assessments and interest as provided in Chapter 17.102;
 3. The applicant has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City; or,
 4. The applicant has had their permit revoked during the two years prior to the application. For purposes of this section, "applicant" includes any individual who was a managing partner, or who owned or controlled more than 20 percent of the voting interests in the permittee whose permit was revoked.
- I. There shall be no right to renewal of a commercial collection permit; each application shall be considered as it would be for a new permit notwithstanding that the applicant has previously been issued a permit.
- J. Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

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1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.240 Revocation or Suspension of Commercial Collection Permits.

(Amended by Ordinance No. 184288, effective January 7, 2011.)

- A. The Director may suspend or revoke a commercial collection permit under the following conditions:
 1. One or more of the permit conditions is being violated;
 2. The permittee is in violation of any of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling.
 3. The permittee has failed to pay fees and assessments as provided in Chapter 17.102.
 4. The permittee has been found by a court of competent jurisdiction to have practiced fraud or deceit upon the City.
- B. The Director shall consider the following criteria in determining whether to revoke or suspend the commercial collection permit due to violations of the provisions of this Chapter or the commercial administrative rules for solid waste and recycling:
 1. The nature and extent of the permittee's involvement in the violation;
 2. Whether the permittee was seeking any benefits, economic or otherwise, through the violation;
 3. Whether the violation was isolated and temporary, or repeated and continuous;
 4. The magnitude and seriousness of the violation;
 5. The relative harms of continued collection service from the permittee and the potential for service disruption;

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6. Whether any criminal prosecutions have occurred in regard to the violations; and
 7. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.
- C. Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.
1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
 2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.250 Commercial Tonnage Fee.

(Amended by Ordinance Nos. 183828 and 185349, effective July 1, 2012.) Commercial permittees shall, when invoiced quarterly by the Director, pay a tonnage fee to the City. Fees shall be assessed up to \$8.30 per ton of commercial solid waste collected within the City and deposited in disposal facilities authorized by Metro. Payments shall be made within 30 days of the date of the invoice. Interest shall accrue at 1 percent per month on balances which remain unpaid as of 30 days after the date of invoice, compounded daily from the due date.

17.102.260 Registration Required for Independent Commercial Recyclers.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. No person shall provide collection service as an independent commercial recycler within the City without having registered with the Bureau of Planning and Sustainability, by providing BPS with a copy of their City of Portland Business License, with their Business License number, or with a copy of their current annual Business License exemption application or request submitted to the City's Revenue Bureau.
- B. All independent commercial recyclers which collect in the City at least 25 tons of recyclables and/or compostables per year shall report quarterly to BPS on the amounts of recyclables collected in the City, on forms provided by BPS.

17.102.270 Businesses and Multifamily Complexes Required to Recycle.

A. Waste Prevention and Recycling Requirements.

- 1.** To achieve the City's waste prevention and recycling goals as set forth in Section 17.102.010, all businesses within the City shall comply with waste prevention, recycling and composting requirements as set forth in the administrative rules established by the Director. The following recycling requirements shall be in effect:
 - a.** All businesses and multifamily complexes shall recycle 75 percent of the solid waste they produce;
 - b.** All businesses shall recycle all of their paper and containers. For the purposes of this Section, containers means all recyclable metal, plastic and glass containers;
 - c.** Food scraps generating businesses shall separate their food scraps for composting.
 - d.** For all building projects within the City where the total job cost (including both demolition and construction phases) exceeds \$50,000, the general contractor shall ensure that 75 percent of the solid waste produced on the job site is recycled. In addition, certain materials generated on the job site shall be recycled in compliance with administrative rules established by the Director. For an affected building project where there is no general contractor, this requirement applies to the property owner is the person responsible for ensuring compliance with the recycling requirements.
- 2.** Commercial customers that provide garbage collection service to business tenants as part of their rental/lease, shall provide recycling and, where appropriate, compostable collection systems that will enable the business tenants to recycle in compliance with administrative rules established by the Director.
- 3.** All multifamily complexes within the City shall establish recycling systems for their tenants' use, in compliance with administrative rules established by the Director.

- B.** The Director may monitor compliance with the requirements of Subsection A by reviewing available information including, but not limited to, information reported by the customers on their recycling activities, as well as onsite inspections.

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- C. Any business or any other person may sell or exchange at fair market value its own recyclable materials which are source separated for reuse or recycling. This Chapter and any administrative rules promulgated hereunder are not intended to limit the ability of any person to compete openly to provide recycling collection service to businesses within the City of Portland.

17.102.280 Inspections to Determine Compliance with Business Recycling Requirements.

- A. The Director shall be responsible for the administration and enforcement of Section 17.102.270 relating to recycling goals for businesses and multifamily complexes. In furtherance of these responsibilities, the Director shall have the authority to inspect sites, buildings and other structures and equipment for compliance with Section 17.102.270. The Director shall establish a program for the periodic inspection of businesses and multifamily complexes for compliance with these requirements. The program shall identify the frequency, priority and types of inspections, subject to the availability of staff and budgeted funds.
- B. Right of Entry. The Director may enter the premises of any business or multifamily complex, except private residences, between the hours of 9:00 am and 5:00 pm on any business day to conduct inspections for the purpose of determining compliance with recycling requirements established pursuant to Section 17.102.270. The Director shall first present proper credentials and request entry. If entry is refused, the Director may attempt to gain entry by obtaining an inspection warrant. Failure to respond to repeated requests may constitute refusal for entry. For the purposes of Section 17.102.280, the premises shall include the common areas of the business or multifamily complex used to store solid waste, recycling or compostable materials.
- C. Warrants. Whenever an inspection is necessary to determine compliance with Section 17.102.270 and the Director has been refused entry, the Director may apply to any Circuit Court judge to obtain an inspection warrant for the inspection of the premises of a business or multifamily complex. The inspection warrant is a court order authorizing entry onto the premises of a business or multifamily complex for the purposes of conducting an inspection to determine compliance with the requirements of Section 17.102.270.
- D. Grounds for Issuance of Inspection Warrants; Affidavit.
 - 1. Affidavit. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the inspection warrant, the applicable code sections or regulation requiring or authorizing the inspection, the property to be inspected and the purpose for which the inspection is to be made including

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the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused.

2. Cause. Cause shall be deemed to exist if the affidavit demonstrates that:
 - a. The inspection is authorized pursuant to reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the premises of a business or multifamily complex;
 - b. There is a reasonable basis for believing that a condition of nonconformity with Section 17.102.270 exists with respect to the designated property; or,
 - c. An inspection is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with any of the requirements of Section 17.102.270 or any regulations promulgated pursuant thereto.

E. Procedure for Issuance of Inspection Warrant.

1. Examination. Before issuing an inspection warrant, the judge may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.
2. Issuance. If the judge is satisfied that cause for the inspection exists and that the other requirements for granting the application are satisfied, the judge shall issue an inspection warrant, particularly describing the person or persons authorized to execute the inspection warrant, the property to be entered and the purpose of the inspection. The inspection warrant shall contain a direction that it be executed on any business day between the hours of 9:00 a.m. and 5:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
3. Police Assistance. In issuing an inspection warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to assist the person authorized to execute the inspection warrant in any way necessary to complete the inspection.

F. Execution of Inspection Warrants

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1. In executing an inspection warrant, the person authorized to execute the warrant shall, before entry into any occupied premises of a business or multifamily complex, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the premises of the business or the multifamily complex designated in the inspection warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. The person authorized to execute the warrant shall leave a copy of the inspection warrant at the premises.
2. Return. The inspection warrant must be executed within 10 working days of its issue. The return of warrant must be submitted to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the inspection warrant shall be void unless it has been timely executed.

17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.

(Amended by Ordinance Nos. 182671 and 184288, effective January 7, 2011.)

- A. No person may store, or cause to be stored, containers of solid waste, recycling or compostables in public right-of-way without a permit from the City Engineer, the City Traffic Engineer, or the Bureau of Planning and Sustainability. For the purposes of this Section, storage means leaving containers in the right of way for more than 2 hours either before or after collection during normal business hours. If collection occurs after normal business hours, containers may be placed in the right of way at the close of business but must be removed from the right of way by the start of the following business day or within 24 hours of set out, whichever occurs first.
- B. The Director may provide exemptions from Subsection A. for extreme economic hardship. Criteria for eligibility shall be based upon such factors as financial hardship for the property or business owner, conditions related to the property and resources necessary to provide adequate on-site, interior storage space for garbage and recycling containers. Exempted property shall be subject to the requirements of this Section following the termination of the hardship exemption. Exemptions shall be for no more than two years. Exemptions may be renewed upon reapplication by the property owner or business owner, after a re-evaluation of eligibility by the Director. Exemptions shall be personal to the property or business owner, and shall not be assignable, transferable or otherwise be conveyable. Exempted property shall be subject to the requirements of Subsection A. following expiration of any hardship exemption granted by the Director.

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- C.** The Director shall develop administrative rules and procedures for determining extreme economic hardships under Subsection B., using the process under Section 17.102.030. The Director shall also adopt standards for space requirements for storage of containers of solid waste, recycling or compostables in new construction and when major alterations are made to existing buildings.
- D.** The Bureau of Planning and Sustainability may charge fees to business and property owners who apply for an extreme economic hardship exemption to recover costs of administering the exemption program. All fees are stated in the Fee Schedule adopted by City Council. Fees will be updated on an as needed basis. The approved Fee Schedule is available through the Bureau of Planning and Sustainability.
- E.** Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set for in Chapter 22.10.

 - 1.** Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
 - 2.** If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.295 Separation of Recyclables, Compost and Solid Waste.

(Added by Ordinance No. 185452, effective July 21, 2012.) It shall be a violation of Chapter 17.102 for any customer to:

- A.** Place in a recycling cart, recycling container or recycling bin any plastic bag, diapers, pet waste, Styrofoam, wood, food, yard debris, or any Solid Waste; or,
- B.** Place in a compost cart or compost container any plastic bag, diapers, pet waste, Styrofoam, or any Solid Waste.

17.102.300 Definitions for Ban of Polystyrene Foam Food Containers (PSF).

As used in Sections 17.102.300 through 17.102.340, the following terms have the following meanings:

- A.** “**Biodegradable**” means material capable of being broken down by micro-organisms into simple substances or basic elements.

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- B. “Chlorofluorocarbons”** are the family of substances containing carbon, fluorine and chlorine.
- C. “Customer”** means any person obtaining food or beverages from a restaurant or retail food vendor.
- D. “Food vendor”** means any restaurant or retail food vendor.
- E. “Food packager”** means any person, located within the City of Portland, who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.
- F. “Non-profit food provider”** means a recognized tax exempt organization which provides food as a part of its services.
- G. “Prepared food”** means food or beverages which are served on the vendor's premises without preparation, or are prepared on the vendor's premises by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. Prepared food does not include any raw uncooked meat or eggs. Prepared food may be eaten either on or off the premises.
- H. “Person”** means any natural person, firm, corporation, partnership, or other organization or group however organized.
- I. “PSF”** means any material composed of polystyrene and having a closed cell air capacity of 25 percent or greater, or a density of less than 0.787 grams per cubic centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.
- J. “Recycled”** describes a type of material that is separated from the solid waste stream and utilized as a raw material in the manufacture of a new product or new economic use.
- K. “Restaurant”** means any establishment located within the City of Portland, selling prepared food to be eaten by customers. Restaurant includes a sidewalk food vendor.
- L. “Retail Food Vendor” or “Vendor”** means any store, shop, sales outlet or other establishment, including a grocery store or a delicatessen, located within the City of Portland, which provides prepared food.
- M. “Reuse”** means the process by which a product is reclaimed or reprocessed into another useful product.

17.102.310 Prohibition on Certain PSF Uses.

- A.** On and after March 1, 1989, no restaurant, retail food vendor or non-profit food provider shall serve food and after June 30, 1989 no packager shall package meat, eggs, bakery products or other food in polystyrene foam (PSF) containers, manufactured with chlorofluorocarbons (CFCs) which do not reduce the potential for ozone depletion by more than 95 percent, compared to the ozone depletion potential of CFC-12 (dychlorodifluorothane). Compounds banned include: CFC-11, CFC- 12, CFC-113, CFC-114, CFC-115, Halon-1211, Halon-13-1 and Halon2402. Food vendors may be required to furnish a written statement from the manufacturer or supplier of polystyrene foam products used by that food vendor, indicating that the chemical compounds used in the manufacture of the vendor's polystyrene foam products meet the provisions of this code.
- B.** On and after January, 1990, no restaurant or retail food vendor shall serve prepared food in any polystyrene foam (PSF) products.

17.102.320 Exemptions for PSF Use.

The City Council, or its appointee, may exempt a food vendor, food packager or non-profit food provider from the requirements of this Code for a one year period, upon showing by the applicant that the conditions of this Code would cause undue hardship. The phrase undue hardship, shall be construed to include, but not be limited to:

- A.** Situations where there are no acceptable alternatives to PSF packaging for reasons which are unique to the vendor or provider;
- B.** Situations where compliance with the requirements of this Code would deprive a person of a legally protected right. If a request for exemption is based upon a claim that a legally protected right would be denied if compliance were required and such request for exemption is denied, review of the denial shall only be by writ of review as provided for in ORS 34.010 to 34.102 and not otherwise.

17.102.330 Enforcement and Notice of Violations for PSF Ban.

(Amended by Ordinance No. 184288, effective January 7, 2011.)

- A.** The Director upon determination that a violation of this code or regulations duly adopted pursuant to this code has occurred, shall issue a written notice of the violation by certified mail to the food vendor or food packager which will specify the violation and appropriate penalty.
- B.** The food vendor or food packager shall, upon receipt of a notice of violation, pay to the City the stated penalty or appeal the finding of a violation to the Code Hearings Officer in accordance with the procedures set forth in Chapter 22.10.

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1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.
2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.

17.102.340 Fines for PSF Ban.

Violations of this ordinance shall be punishable by fines as follows:

- A. A fine not exceeding \$250 for the first violation in a one year period;
- B. A fine not exceeding \$500 for the second and each subsequent violation in a one year period.

FIGURE 6 - Chapter 17.102

(Replaced by Ordinance No. 185349
effective July 1, 2012.)

As used in Figure 6 the following terms have the meanings described below:

“Excess distance” is applicable to any collection beyond seventy-five (75) feet from the curb. This charge is in addition to the “non-curb surcharge”.

“Clean up containers” include hauler-provided containers which are provided as requested by the customer for occasional or temporary use.

“Small Multiplex” means any multidwelling building or a combination of buildings on a single tax lot in the residential franchise territory that contains 2-4 dwelling units.

“Non-curb surcharge” is the charge for collection service provided at a location more distant than curbside.

“Terrain differential” is applicable to services within the territory designated on Figure 6-1.

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Residential Solid Waste and Recycling Rates

Single Family Residential Service Level	Monthly Rate, Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
Weekly Composting & Recycling, Every-Other-Week Garbage				
20-gallon Can	24.85		1.70	0.55
32-gallon Can	28.20		1.70	0.55
20-gallon Rollcart	25.80			
32-gallon Rollcart	29.70			
60-gallon Rollcart	37.80			
90-gallon Rollcart	43.80			
1.0 Cubic Yard Container	88.10			
1.5 Cubic Yard Container	121.15			
2.0 Cubic Yard Container	154.20			
Weekly Composting & Recycling, Every-Four-Weeks Garbage				
32-gallon Can	21.85		0.85	0.30
32-gallon Rollcart	23.15			
Special Services				
Recycling Only, Weekly Collection	7.50			
Composting & Recycling Only, Weekly Collection	18.35			
On Call Yard Debris Collection (32 gallon Can, Bag, or Bundle--Yard Debris Only)		7.00		
32-Gallon Can Garbage On Call		9.05	0.85	0.30
Yard Debris, Extra Can, Bag or Bundle –Yard Debris Only		3.75		
Garbage, Extra Can or Bag		5.00	0.85	0.30
Courtesy Callback (Garbage or Composting)		7.95		
Rollcart Delivery		11.25		
Extra Composting Rollcart	11.10			
Extra Recycling Rollcart	2.75			

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Single Family Residential Service Level	Monthly Rate, Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
Clean-Up Containers				
One 1.0 Cubic Yard		88.75		
One 1.5 Cubic Yard		97.10		
One 2.0 Cubic Yard		105.40		
Terrain Surcharge				
Every-Other-Week Garbage (Single Can)	4.20			
Every-Other-Week Garbage (Multiple Cans / Rollcarts)	4.35			
Recycling Only	1.45			
32-Gallon Can Garbage On Call	0.60			
On Call Yard Debris Collection (32 gallon Can, Bag, or Bundle--Yard Debris Only)	0.50			
Weekly Composting & Recycling, Every-Other-Week Garbage – Multiple Cans and Carts				
32-Gallon Cans, Two	38.95		3.40	1.10
32-Gallon Cans, Three	44.95		5.10	1.65
32-Gallon Cans, Four	49.35		6.80	2.20
32-Gallon Rollcart, Two	39.35			
32-Gallon Rollcart, Three	47.40			
32-Gallon Rollcart, Four	55.45			
60-Gallon Rollcart, Two	48.15			
60-Gallon Rollcart, Three	58.20			
60-Gallon Rollcart, Four	68.85			
90-Gallon Rollcart, Two	55.75			
90-Gallon Rollcart, Three	67.80			
90-Gallon Rollcart, Four	81.45			

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Residential Curbside Monthly Rates -- Small Multiplexes

Weekly Composting & Recycling, Every-Other-Week Garbage			
Collection for:	Duplex	Tri-plex	Four-plex
Single Container Service, where can / cart / container is shared by residents of 2, 3 or 4 units			
One shared 32-Gallon Rollcart	35.50	N / A	N / A
One shared 60-Gallon Rollcart	38.60	44.40	N / A
One shared 90-Gallon Rollcart	42.15	47.95	53.75
One shared 1.0 Cubic Yard Container	67.55	73.35	79.15
One shared 1.5 Cubic Yard Container	84.85	90.65	96.45
One shared 2.0 Cubic Yard Container	102.10	107.90	113.70
Multiple Containers			
Two 32-Gallon Cans	38.40	44.20	N / A
Three 32-Gallon Cans	42.30	48.10	53.90
Four 32-Gallon Cans	46.20	52.00	57.80
Two 20-Gallon Rollcart	32.05		
Three 20-Gallon Rollcart	39.90		
Four 20-Gallon Rollcart	46.15		
Two 32-Gallon Rollcarts	40.40	46.20	52.00
Three 32-Gallon Rollcarts	45.30	51.10	56.90
Four 32-Gallon Rollcarts	50.20	56.00	61.80
Two 60-Gallon Rollcarts	62.55	68.35	74.15
Three 60-Gallon Rollcarts	54.55	60.35	66.15
Four 60-Gallon Rollcarts	62.55	68.35	74.15
Two 90-Gallon Rollcarts	53.65	59.45	65.25
Three 90-Gallon Rollcarts	65.20	71.00	76.80
Four 90 Gallon Rollcarts	76.70	82.50	88.30

Monthly Non-Curbside Service	1.70 per Can	3.50 per Rollcart
Monthly Excess Distance Charge	0.55 per Can	1.15 per Rollcart
Recycling & Composting Labor Charge (after First Unit)	5.80 per Unit	
Terrain Surcharge (for services within the territory designated on Figure 6-1)	4.35 per Account	
Yard Debris - Extra Can, Bag or Bundle--Yard Debris Only	3.75 Each	

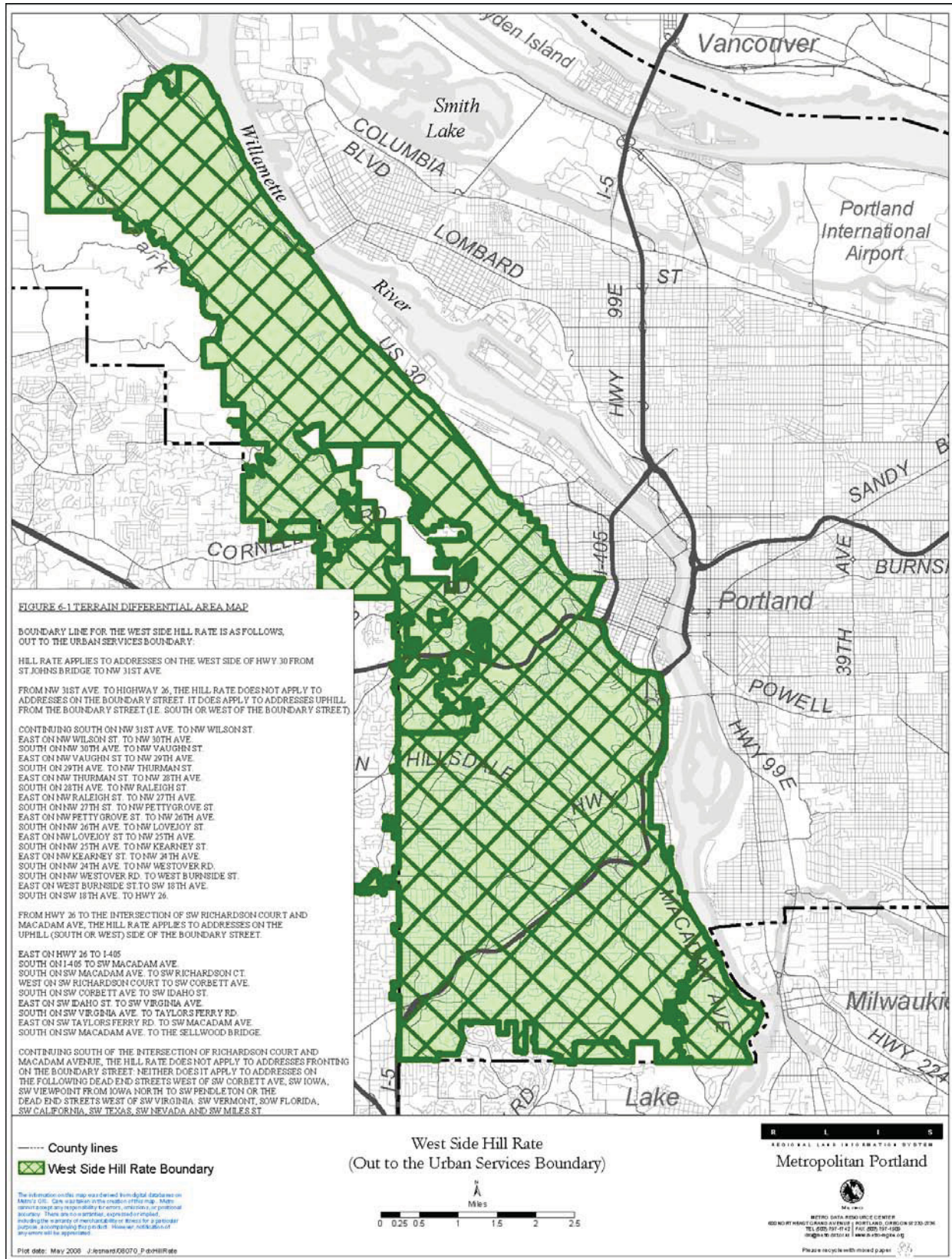


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Chapter 20.28

**RENTAL CHARGES FOR CIVIC
STADIUM**

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- 20.28.020 Insurance Coverage.
- 20.28.030 Restriction of Use.
- 20.28.040 Collection of Rentals.

20.28.010 Basic Rental Charges.

(Repealed by Ordinance No. 185569, effective September 28, 2012.)

20.28.020 Insurance Coverage.

Sponsors of events in Portland Civic Stadium shall maintain liability insurance against claims for damage or personal injury, including death, which may arise out of its operations in the stadium or in connection therewith. Such insurance shall afford coverage of not less than \$100,000 for personal injury to each person, \$300,000 for each accident or occurrence, and \$50,000 for property damage; such insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City, its officers, agents, and employees. Evidence of such insurance shall be furnished the Auditor of the City prior to the event and the same shall be kept in full force and effect throughout the full term of Stadium usage, subject to approval of the City Attorney as to sufficiency of coverage.

20.28.030 Restriction of Use.

- A.** Whenever, in the opinion of the Commissioner In Charge of the Civic Stadium or of the Council of the City, any applicant or permittee for the use of the Civic Stadium is likely to or does advocate to any audience in the Stadium the overthrow of the United States government or the government of any state or subdivision thereof by force, and when such Commissioner shall file a report with the City Auditor to that effect, or when the Council shall make a finding to that effect, then the application shall be rejected or the permit of such permittee for the rental of said Stadium is hereby declared to be null and void. All permits for the rental of the Civic Stadium hereafter entered into shall be subject to the provisions of this Chapter, and this Chapter shall be a part of such permit of rental. In case of the annulment of any permit as herein provided, the amount of rental paid thereunder, less any expense actually incurred thereunder by the City, shall be refunded to the permittee.

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- B.** Use of the Civic Stadium shall be deemed a privilege and not a right. Subject to the approval of the Commissioner In Charge, the Manager of the Civic Stadium may reject any application for rental of all or any portion of the Stadium whenever he finds that the particular event or performance may result in extraordinary risk of damage to the Stadium structure, furnishings, or facilities. If the Commissioner In Charge finds that such risk is of a character that special conditions may adequately protect the people of the City and the City itself from liability and loss, whether by penal bond, money deposit, special security measures at the expense of the applicant for rental, or other device, without other events and rentals, then the Commissioner In Charge may impose such special restrictions and requirements as he finds appropriate and adequate for such protection. The conditions of any such deposit or special requirements and the provisions of any such bond, shall be approved as to form by the City Attorney.

20.28.040 Collection of Rentals.

All rental charges and reimbursements for expenses chargeable to sponsors of events shall be due upon billing from the City Auditor.

Chapter 20.30

PORTLAND INDOOR TENNIS CENTER

(Chapter repealed by Ordinance No. 164427,
effective July 10, 1991.)

Chapter 20.32

PITTOCK MANSION

Sections:

- 20.32.010 Admission Charges for Viewing Interior of Mansion.
- 20.32.030 Pittock Mansion Society.
- 20.32.040 Photography at Pittock Mansion-General Provisions.
- 20.32.050 Fees for Commercial Photography.

20.32.010 Admission Charges for Viewing Interior of Mansion.

(Amended by Ordinance Nos. 144250, 147839, 152225, 157277, 157649, 158387 and 161281, effective October 1, 1988.) Fees for admission to Pittock Mansion during its regular viewing hours shall be reviewed by Pittock Mansion Advisory Commission, approved by the Superintendent of Parks and established by rule by the Commissioner In Charge of the Bureau of Parks according to Section 20.04.050.

20.32.020 Charges for Special Uses of the Mansion.

(Repealed by Ordinance No. 158992, effective September 11, 1986.)

20.32.030 Pittock Mansion Society.

(Amended by Ordinance No. 148542, effective October 4, 1979.) Members of the Pittock Mansion Society holding a continuing, annual, or individual membership shall have free admission to the Pittock Mansion. Free Admission to such memberships shall include the member and his family. For each continuing, annual, or individual membership, the Pittock Mansion Society shall pay to the City the following amounts:

- A.** Continuing and annual memberships \$3
- B.** Individual memberships
 - 1.** Husband and wife - \$2
 - 2.** Adult - \$1
 - 3.** Student - \$.50

Remittance to the City shall be made annually by the Society as memberships are old.

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20.32.040 Photography at Pittock Mansion.

(Repealed by Ordinance No. 165019, effective January 29, 1992.)

20.32.050 Fees for Commercial Photography.

(Added by Ordinance No. 135182; amended by Ordinance No. 147839, 151528 and 160657, effective April 14, 1988.)

- A.** All activity of commercial photographers shall be subject to supervision by the Pittock Mansion staff. The Director of the Pittock Mansion shall designate a staff member to supervise all interior photography. The Director may designate a staff member to supervise exterior photography where deemed necessary.
- B.** Fees for photographer location work done within Pittock Acres Park shall be proposed by the Director of Pittock Mansion and approved by the Superintendent of Parks or designated representative.
- C.** Special fees may be charged for commercial photographic work intended for national dissemination, including television productions and motion pictures, or which involves extraordinary circumstances. Such fees shall be negotiated with the Director of Pittock Mansion and approved by the Superintendent of Parks or designated representative.
- D.** Photographic use requiring major staff time, extraordinary circumstances or inordinate demand on the facilities may be referred to the Advisory Commission for their recommendation.
- E.** At the discretion of the Director of Pittock Mansion, fees may be waived for representatives or students of educational institutions, the news media, and projects of State, county or municipal governments.

Chapter 20.36

**PORTLAND INTERNATIONAL
RACEWAY WEST DELTA PARK**

(Chapter replaced by Ordinance No. 135855;
effective January 11, 1973.)

Sections:

- 20.36.010 Authority to Issue Permits.
- 20.36.020 Conditions of Permits.
- 20.36.030 Fees.
- 20.36.040 Additional Charges.

20.36.010 Authority to Issue Permits.

(Amended by Ordinance No. 165019, effective January 29, 1992.) The Superintendent of Parks or his or her authorized representatives shall have the authority to allow motor vehicle and motorcycle racing, testing, demonstration, exhibition, or driving training at West Delta Park, hereafter referred to as PIR, and to grant exclusive use of all or part of the park roadways and other facilities in West Delta Park for such events in the park by issuing permits, or by assessing fees as described in Section 20.36.040 or for such other events and uses as the facilities can accommodate.

20.36.020 Conditions of Permits.

The permits issued under the authority granted under Section 20.36.010 hereinabove shall be conditioned by rules and regulations of the Bureau of Parks governing use of PIR, and shall include provisions designating the event which may be staged, the courses and areas to be used and the limit, if any, on the number of vehicles or persons that may participate in the permitted event. The permit shall provide that the Superintendent or his authorized representatives have authority to immediately terminate operations under the permit if permittee fails to comply with orders and regulations of the Superintendent or his authorized representatives or the conditions of the permit. The permit shall require that the permittee lock up and secure the racing facility after each event. The Superintendent or his authorized representatives may require a bond or cash deposit to insure compliance with the conditions of the permit. The permittee shall be required to indemnify and save the City, its officers, agents, and employees harmless from claims for damage to persons or property resulting from the use of PIR under the permit.

The Superintendent or his authorized representatives may, depending upon the nature of the event, require the permittee to furnish evidence of liability insurance covering his operations under the permit, which insurance shall provide coverage of not less than \$100,000 for personal injury for each person, \$300,000 for personal injury for each event,

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and \$50,000 property damage. The City, its officers, agents, and employees shall be named as additional insureds. Such evidence of insurance shall be in form satisfactory to the City Attorney.

20.36.030 Fees.

(Amended by Ordinance Nos. 141335, 145146, 148765, 150854, 152673, 156919, 159303, 161474 and 165019, effective January 29, 1992.) The Superintendent of Parks is authorized to establish, maintain and modify a schedule of fees for the events and uses the Superintendent allows under Section 20.36.010 of this Code. It shall be unlawful for any person to use the facilities described in Section 20.36.010 without first paying the fee established by the Superintendent for that use or event.

20.36.040 Additional Charges (No Permit Will Be Issued.)

(Amended by Ordinance Nos. 139567, 145146, 150854, 152673, 156919, 159303 and 161474 effective January 1, 1989.)

- A.** Testing of cars on the road course, on the days set aside by the Superintendent will be \$100 per car, per day. Testing of cars on the on the drag strip on the days set aside by the Superintendent will be \$75 per car per day. Private testing on nonscheduled test days will be \$650 per day for up to two cars and an additional charge of \$150 per car for each vehicle over two. For C.A.R.T. Indy car teams and I.M.S.A. GTP teams that require private testing, the charge will be \$1200/per day for up to two cars and \$200 per car for each vehicle over two.
- B.** Recreational riding in the motorcycle area on days set aside by the Superintendent will be \$5 per rider per day, persons under 12 years of age will be free.
- C.** For miscellaneous events, not listed above, the Superintendent will set the rental rate according to the size and description of the event and considering the facilities to be provided which shall return to the City at least minimum operational costs.
- D.** Users of the raceway or other facilities who require use of the raceway lights will be charged at the rate of \$65 per day in addition to any other charges or permit fees.
- E.** The Superintendent or his/her authorized representatives is authorized to sell advertising space within the raceway, hereby waiving Section 20.12.030 of the City Code. The rates will vary depending on the size of the sign, the location of the sign, and the length of the agreement, with charges subject to approval by the Commissioner In Charge.
- F.** A \$200 surcharge will be made to any user who violates established raceway noise regulations.

Chapter 20.38

MULTNOMAH CENTER

(Chapter added by Ordinance No. 152710;
effective January 13, 1982.)

Sections:

- 20.38.010 Term Leases and Facilities Use Permits.
- 20.38.020 Authority to Issue Permits for Short Term Use.
- 20.38.030 Rules and Regulations.
- 20.38.040 Conditions of Permits.
- 20.38.050 Charge for Use of Facilities.
- 20.38.060 Waiver of Charges.
- 20.38.070 Policies on Use.
- 20.38.080 Priority for Users.

20.38.010 Term Leases or Facilities Use Permits.

The City Council may authorize leases or facilities use permits with non-profit organizations for rental of space in the Center for a period not to exceed 5 years.

20.38.020 Authority to Issue Permits for Short Term Use.

(Amended by Ordinance No. 153957, effective December 6, 1982.) The Superintendent of Parks or an authorized representative shall have authority to issue permits to non-profit and commercial organizations for short term use of facilities which have not been rented on a long term basis by lease or permit. The purpose of the commercial organizations must be compatible with the community services provided by the Multnomah Center. Issuance of such permits shall be in accordance with the provisions of this Chapter.

20.38.030 Rules and Regulations.

The Superintendent of Parks, subject to approval of the Commissioner In Charge, may adopt rules and regulations relating to use of the Center which shall not be inconsistent with the provisions of this Chapter. Such rules and regulations shall not conflict with the provisions of any pre-existing lease or permit.

20.38.040 Conditions of Permits.

The permits issued under the authority granted under Section 20.38.020 shall be conditioned by rules and regulations of the Bureau of Parks governing use of the Center, and shall include provisions designating the nature of the use and the areas or facilities to be used. The permit shall provide that the Superintendent or his authorized

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representatives have the authority to immediately terminate the use under the permit if permittee fails to comply with the rules and regulations or the conditions of the permit. The permittee shall be required to indemnify and save the City, its officers, agents, and employees harmless from claims for damages to persons or property resulting from the use of the Center under the permit.

The Superintendent or his authorized representative may, depending on the nature of the use, require the permittee to furnish evidence of liability insurance covering the use under the permit, which insurance shall provide coverage of not less than \$100,000 for personal injury for each person, \$300,000 for personal injury for each occurrence and \$300,000 property damage for each occurrence. The City, its officers, agents, and employees shall be named as additional insureds. Such evidence of insurance shall be in form satisfactory to the City Attorney.

20.38.050 Charge for Use of Facilities.

(Amended by Ordinance Nos. 153957 and 159171, effective December 15, 1986.) Charges will be made for the use of the following Multnomah facilities by permit issued pursuant to Section 20.38.020: class rooms, conference rooms, kitchenette, gym, auditorium, and kitchen. There will be a minimum charge, a refundable cleaning deposit, a kitchen cleanup deposit, and a liquor deposit. There will be additional staff charges for use of the facility at times other than regular hours of the Multnomah Center operation. Various set-up and take-down charges will be applied if existing table and seating arrangements are altered. Specific charges and fee rules and regulations will be determined and adjusted periodically by the Superintendent of Parks or an authorized representative.

20.38.060 Waiver of Charges.

The Superintendent of Parks or his authorized representatives may waive the charges specified in Section 20.38.050 for use of multi-purpose rooms by community groups which provide information to the community relating to the community's health, education, or welfare. Such groups shall not charge members of the public to attend any such function and such function shall be open to the public. Groups eligible for fee waiver shall not be commercial, partisan, political, or religious groups and shall not use the Center to advocate for or against any candidate for public office, or for or against any measure or proposition to be voted upon by the voters.

20.38.070 Policies on Use.

(Amended by Ordinance No. 153957, effective December 6, 1982.) The proposed use must be in accordance with the provisions of the City Code and Ordinances and the rules and regulations relating to use of the Multnomah Center established pursuant to this Chapter. Events which involve political, religious, or income generating activities must be approved by the Commissioner In Charge of the Bureau of Parks.

Organizations using Multnomah Center facilities by permit issued pursuant to Section 20.38.020 shall be allowed to serve alcoholic beverages within the Center with the following restrictions:

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- A.** Alcoholic beverages served by a licensed and insured caterer; or
- B.** The renting organization must obtain the appropriate OLCC license and provide the Multnomah Center with a certificate of comprehensive general liability insurance for \$300,000 naming as insured the City of Portland, its officers, agents, and employees, and sign a “Hold Harmless” agreement with the City of Portland for any liability; and
- C.** All supplies and materials or other property brought on the premises will be the sole responsibility of the user.

20.38.080 Priority for Users.

(Repealed by Ordinance No. 159171, effective December 15, 1986.)

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Chapter 20.40

**STREET TREE AND OTHER PUBLIC
TREE REGULATIONS**

(Chapter replaced by Ordinance No. 159490,
effective March 12, 1987.)

Sections:

20.40.010	Purpose.
20.40.020	Definitions.
20.40.030	Urban Forestry Commission.
20.40.035	Technical Assistance.
20.40.040	Urban Forestry Master Plan.
20.40.045	Superintendent.
20.40.050	City Forester.
20.40.070	Planting of Trees.
20.40.080	Maintenance of Trees.
20.40.090	Removal of Trees.
20.40.100	Permit Requirements and Conditions.
20.40.105	Major Improvements.
20.40.110	New Land Division.
20.40.120	Protection.
20.40.130	New Streets.
20.40.140	Liabilities and Responsibility for Costs.
20.40.150	Heritage Trees.
20.40.160	Disposition of Wood from Trees.
20.40.170	Nuisances-Abatement Procedure.
20.40.180	Abatement by Owner, Administrative Review, Appeal to the Code Hearings Officer.
20.40.185	Administrative Review.
20.40.190	Abatement by the City.
20.40.195	Notice of Assessment.
20.40.200	Personal Liability of Owner.
20.40.205	Cost of Abatement; Low Income, Elderly Persons.
20.40.210	Criminal Penalty.
20.40.215	Civil Penalties.
20.40.220	Civil Remedies.
20.40.230	Institution of Legal Proceedings.
20.40.235	Notification to Planning and Sustainability Commission.
20.40.240	Severability.

20.40.010 Purpose.

The purpose of this Chapter is the managing, conserving and enhancing the existing trees located in the parks and public areas owned by the City of Portland and in public rights-of-way, and thereby enhancing the appearance of the City and protecting an important environmental and economic resource for the benefit of the City's residents and visitors, and for the purpose of assisting property owners and public agencies to improve and maintain trees in a manner consistent with adopted City policies.

20.40.020 Definitions.

As used in this Chapter, the singular includes the plural and vice versa.

- A. Arboriculture** refers to that part of horticulture which deals with the study and care of trees and other woody plants.
- B. City** means the City of Portland.
- C. Commission** means the Urban Forestry Commission.
- D. Engineer** means the City Engineer.
- E. Forester** means the City Forester.
- F. Person** includes any individual, firm, association, corporation, agency, or organization of any kind.
- G. Plan** means the Tree Planting and Maintenance Plan for streets, parks and public areas, also known as the Urban Forestry Plan.
- H. Pruning** refers to cutting or removing any part of the branching structure of a plant in either the crown, trunk or root areas.
- I. Public area** means City-owned lands not located in the park or street right-of-way.
- J. Removal** refers to the cutting or removing of 50 percent or more of the crown, trunk or root system of a plant, resulting in the loss of aesthetic or physiological viability.
- K. Street** shall have the meaning set forth in Section 9-101 of the City Charter.
- L. Superintendent** means the Superintendent of Parks and Recreation.

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- M. Tree** shall include only those trees which are located on public property or those which are assigned to the jurisdiction of the Forester by other City policies, procedures and Code provisions.
- N. Urban Forestry** has as its objective the cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological and economic well being of urban society. Inherent in this function is a comprehensive program designed to educate the urban populace on the role of trees and related plants in the urban environment. In its broadest sense, urban forestry is one essential component of a multi-managerial system that includes watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, recycling of municipal vegetative wastes and tree care in general.
- O. Utility** means public utilities, businesses or organizations in the business of supplying electrical energy, gas, heat or steam, water, communications, or other services through or associated with telephone or telegraph, sewage disposal and treatment, and other operations for public service, but does not include transportation service, railroad operations, or service otherwise licensed under City Code.

20.40.030 Urban Forestry Commission.

(Amended by Ordinance No. 171655, effective November 7, 1997.)

- A.** The Urban Forestry Commission is hereby created. It shall consist of eleven members who have demonstrated an interest in the preservation of trees and the beautification of Portland, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. Members shall serve without compensation for terms of 4 years and may be reappointed. At least three members shall have experience and expertise in arboriculture, landscape architecture or urban forestry. One member shall be a member of the Board of Trustees of the Hoyt Arboretum. The remaining seven members, insofar as possible, shall represent diverse regions or interests of the community. Two of the three members initially appointed with experience or expertise in arboriculture or urban forestry shall initially serve a term of two years. Two of the members appointed from geographically diverse regions of the City shall initially serve a term of two years. The City Forester and the Commissioner of Parks and Recreation or the Commissioner's designee, and the City Engineer or the City Engineer's designee shall serve as ex-officio members of the Commission.
- B.** The Urban Forestry Commission shall elect its own chair and adopt such rules of procedure as it deems necessary to the conduct of its duties.

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- C.** The Commission shall meet at least monthly and may meet more often.
- D.** The Commission shall:
 - 1.** Provide assistance in the development of the Urban Forestry Master Plan, submit the same to the City Council for approval, and review and update such plan periodically.
 - 2.** Advise the Forester, Superintendent and Bureau of Parks and Recreation Budget Advisory Committee on the preparation and contents of the Annual Forestry Unit budget request.
 - 3.** Review plans and policies developed pursuant to other City Code provisions which contain elements or which affect matters related to Urban Forestry and arboricultural concerns in the City and other matters brought forward by the Forester and others.
 - 4.** Prepare and submit to the Commissioner of Parks and Recreation an annual report which shall contain a section or sections specifically dealing with the relations with and concerns of the various City bureaus.

20.40.035 Technical Assistance.

- A.** The Forester shall assist the Forestry Commission in the discharge of its duties.
- B.** When requested by the Urban Forestry Commission and Commissioner In Charge, the City may retain the services of a professional review panel of not more than three members, either foresters, arboriculturists, landscape architects or some combination thereof to advise the Commission on the efficiency of proposed actions and planting schemes. At least one member of this panel should be very familiar with Portland. The Forester shall present a list of qualified names to the Forestry Commission for its review and selection. No member of the professional review panel shall serve if he/she has a conflict of interest.

20.40.040 Urban Forestry Master Plan.

- A.** The Urban Forestry Commission shall develop and establish a Comprehensive Urban Forestry Plan for the planting, maintenance and replacement of trees in parks, along streets or in other public areas. When a portion of such plan has been developed and established, it shall be submitted to the City Council for adoption prior to implementation. The Forester shall seek the advice of any bureau which will be affected by the plan.

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- B.** The Forester shall maintain a list of approved varieties of trees that may be planted on any street or in any park or public area, consistent with the provisions of the plan.
- C.** All tree planting, maintenance and removal shall comply with and conform to the Plan or such portions thereof as shall have been adopted at the time of the planting, maintenance or removal.

20.40.045 Superintendent.

The Superintendent shall have the following responsibilities relating to the Urban Forestry Commission:

- A.** Preserve and enhance the Urban Forest.
- B.** Develop and maintain the Urban Forestry Master Plan.
- C.** Carry out the other responsibilities applicable to the Urban Forestry Commission.
- D.** The Superintendent will meet with the Urban Forestry Commission upon their written request.
- E.** The Superintendent shall administer and monitor the implementation of the Master Plan.
- F.** Upon 15 calendar days' written notice from the City Engineer of impending, non-emergency road or sewer maintenance activities, the Superintendent shall implement and carry out the abatement procedures in Section 20.40.270 as necessary to provide tree branch clearances over the street as set forth in Title 17.

20.40.050 City Forester.

There shall be a City Forester position within the Bureau of Parks and Recreation. The position shall be filled by a qualified arborist. The duties of the City Forester are:

- A.** To manage the Forestry Division.
- B.** To assist the Superintendent of Parks and Recreation in responsibilities specified in 20.40.045.
- C.** To provide administrative staff services to the Urban Forestry Commission.
- D.** To develop and periodically update specifications for planting, pruning, removing and maintaining trees in accordance with proper arboricultural practices.

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- E.** To prepare and submit the annual budget request for the operation of the Forestry Division.
- F.** To provide all supervision of tree maintenance services including cutting, pruning, spraying, planting and tree removal required by or performed by the City bureaus, subject to the annual budget provided for by the City Council for such services and subject to City bureaus' contracting to have such services provided by private contractors as may be engaged by City bureaus pursuant to the City's normal contracting procedures through the City's Bureau of Purchases and Stores.
- G.** To prepare a monthly report on Urban Forestry activities for Commission review.
- H.** To carry out the other duties specified in this Chapter.

20.40.070 Planting of Trees.

(Amended by Ordinance Nos. 163739, 173534 and 176955, effective October 9, 2002.)

- A.** The Forester may plant or cause trees to be planted in the streets, parks and other property of the City. In addition to using his/her own personnel, he/she may hire independent contractors consistent with City Code provisions.
- B.** The owner of any property upon which there is new residential or commercial construction or improvements to existing development, which exceed \$25,000 in value, as determined by the Bureau of Development Services, shall be required to plant street trees, in accordance with the requirements of this Chapter. The Forester may waive any or all of the requirements of this Subsection if, in the Forester's judgment, compliance is not practicable. The Forester may impose conditions at the Forester's discretion upon such waiver, including, without limitation, requiring the planting of trees on the owner's private property.
- C.** It shall be unlawful for any person to plant or set out any tree or authorize or cause or procure any person to set out any tree in or upon any part of any street, park or public area without first obtaining from the Forester a written permit to do so and complying in all respects with the conditions set forth in such written permit and with the provisions of this Chapter. Such permit shall be receipted for in writing. All applications for such permit shall describe the work to be done and the variety, size and precise location of each tree to be planted. If the Forester has found that the proposed planting is in accord with the Plan or that trees proposed to be planted have a reasonable likelihood of prospering and such permit specifies the location, variety and grade of each tree and method of planting, including among other things the supplying of suitable soil, then he/she may grant a permit. The permit shall be valid only during the period of time stated in the permit.

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- D.** Any owner of property whose construction or improvements necessitate street tree planting under Subsection 20.40.070 B. shall obtain from the Forester a permit for such planting as provided in Subsection 20.40.070 C. The Bureau of Development Services shall have authority to enforce the requirements of this Subsection 20.40.070 B., and shall not issue any approval of final inspection until this planting required by the Forester under that Section has been accomplished. Whenever tree planting is required for any land division under Section 20.40.110, the Bureau of Development Services shall have the authority to issue and enforce, through its own permitting and enforcement processes, permits required by this Section. When issuing and enforcing such permits, the Bureau of Development Services shall require that plantings conform to the tree species and layout plan designated by the Forester at the time of, and required by, the land division.
- E.** Every person planting any tree under this Chapter shall conform to the City's Tree Standards as established by the Forester,
- F.** The Council may establish, by ordinance, inspection fees as part of the tree permit process.
- G.** All trees required by this Section must be planted prior to the issuance of a certificate of occupancy. If the applicant files security with the City, which ensures that the trees will be installed, the trees may be deferred during the summer months and planted during the dormant period, in the discretion of the Forester. Any security filed under this Subsection must comply with the regulations for performance guarantees established in Title 33.
- H.** The Forester may require any property owner subject to this Section to identify street trees on the property deed, and to note on such deed that the trees are subject to the regulations of this Chapter.
- I.** The Forester shall submit for review all tentative planting proposals in streets to the City Engineer for the purpose of protecting existing utilities and sewer branches. The City Engineer shall issue an appropriate permit for planting, barring any conflict with any known facility.

20.40.080 Maintenance of Trees.

- A.** The Forester may prune, control insects and disease and maintain or cause to be pruned, sprayed and maintained, all of the trees in the streets, parks and other public areas and those other trees on private property which the Forester determines it is in the public interest to maintain to control infestations of insects or disease or to maintain public safety.

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- B.** It is the duty of every owner of property adjacent to which or in front of which any tree is standing on any street and of every owner of property upon which any tree is standing which projects into the street to maintain and prune such tree using proper arboricultural procedures, according to the requirements for tree branch clearance over street and sidewalk areas and signs as set forth in Titles 16 and 17 of the Code of the City of Portland. The Forester shall give, with each permit printed, standards for proper arboricultural procedures.
- C.** Every property owner shall be liable to any person who is injured or otherwise suffers damage by reason of the property owner's failure to maintain or prune trees as required by Titles 16, 17 and 20 of the Code of the City of Portland. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by Titles 16, 17, 20 and 33 of the Code of the City of Portland.
- D.** Whenever the owner or owners, lessees, occupants or persons in charge of private grounds shall neglect or refuse to prune any tree as provided in this Section, the Forester may prune or treat or cause to be pruned or treated such tree. The person remedying the condition shall be authorized to enter the premises for that purpose.
- E.** Pruning for or by a utility. Upon obtaining a written permit from the Forester, a utility maintaining its utility system in a street may prune or cause to be pruned, using proper arboricultural practices in accordance with said permit, any tree located in or overhanging the street which interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system; but no tree shall be pruned without the consent of the abutting owner until the utility shall have given a written or printed notice to the owner or occupant of the premises. The owner or occupant has one month after receipt of notice to have said trees pruned by a qualified line clearance contractor, at the owner's or occupant's expense, and in accordance with the terms of the permit. If the owner or occupant fails, neglects or refuses to have such tree pruned as required by the notice and permit, the utility may prune or cause to be pruned, the tree at its expense in accordance with the conditions of the permit. The Forester, at his/her discretion, may waive the notification and single tree permit process if the utility adequately demonstrates the ability to meet the performance requirements of this Section and to apply consistently proper arboricultural practices to the pruning of trees.
- F.** Nothing in this Chapter shall be deemed to impose any liability upon any member of the City Council or the City, or any of its officers or employees nor to relieve the owner of any private property from the duty to prune trees in accordance with Titles 16, 17 and 20 of the Code of the City of Portland.

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- G.** The City may accept gifts which are specifically designated for the purpose of planting or maintaining trees within said City.

20.40.090 Removal of Trees.

- A.** Diseased trees. When any tree located on a street or on private property is diseased or infested with insects or is, in the opinion of the Forester, infectious and may spread such disease or insects to other trees in the City, the Forester may summarily abate or remove or treat the tree or cause same to be removed or treated at the property owner's expense.
- B.** Regulations regarding root interference with sewers and damage to curbs and sidewalks are set forth in Title 17, Public Improvements, of the Code of the City of Portland.
- C.** The Forester may abate or remove or cause to be abated or removed any tree located in the street area or which encroaches from private property into the street area because of age, disease or other debilitating cause, death, insecure root system or any other condition which, in the opinion of the Forester, causes its continued existence to be detrimental to the public interest. The Forester may require that the removed tree be replaced with a new tree at the expense of the property owner.
- D.** It shall be unlawful for any person, without a prior written permit from the Forester, to remove, destroy, cut, break, or injure any tree, or to remove, except as provided in this Chapter, any tree that is planted or growing in or upon any street, park or public area or cause or authorize or procure any person to do so; or injure, misuse or remove any device set for the protection of any tree in or upon any street.
- E.** The approval of a tree removal by the Forester may be conditioned on replacement with a new tree of approved variety if the Forester finds the replacement necessary to maintain an ornamental tree system on the street, block or portion thereof.
If approval by the Forester is so conditioned the tree removal permit shall contain such condition. Cost of replacement is the responsibility of the property owner. If the tree is not replaced in a timely manner, the Forester may plant or cause to be planted the approved tree or trees and assess the costs to the permittee and/or the property owner responsible for maintaining the tree under Section 20.40.080 of the Code of the City of Portland.

20.40.100 Permit Requirements and Conditions.

- A.** Any person desiring for any purpose to plant, remove, destroy, cut, prune or treat any tree in or upon any street, shall make application to the Forester on forms furnished by the City. Such application must state the number and kind of tree to be planted, removed, pruned or treated, the name of permittee and/or contractor, and the time by which the proposed work is to be done and such other information as may be required by the Forester. Any work done under such written permit must be performed in strict accordance with the terms and provisions of this Chapter. In issuing or denying a permit, the Forester shall apply all the standards as set forth in this Chapter and the objectives of the Street Tree Plan.
- B.** If the Forester refuses to issue any permit as required by this Chapter, he/she shall at once so notify the applicant, who may appeal to the Commission in writing within 10 days thereafter. The Commission shall proceed to hear and determine the appeal, calling upon the Forester to give his/her reasons. If a permit is again denied, the applicant may appeal to the City Council.
- C.** In case of emergency caused by a tree being in a hazardous and dangerous condition, such tree may be removed by permission of any member of the Police or Fire Department. In the course of performing unexpected or emergency road or sewer maintenance activities, representatives of the City Engineer and/or City Traffic Engineer may trim and/or prune a tree as required for the performance of the immediate work.

20.40.105 Major Improvements.

When the City Engineer undertakes to plan or design major capital improvements to the road system, the Urban Forestry Commission shall be consulted through the Superintendent. The purpose of these consultations shall be to ensure that the beautification policies of the Arterial Streets Classification Policy are implemented to the maximum extent feasible.

20.40.110 New Land Division.

(Amended by Ordinance No. 173534, effective July 31, 1999.) The Forester shall require the planting of street trees within the planting strips of any new land division in conformity with the Urban Forestry Master Plan. All such planting shall be done in accordance with the planting specifications governing the planting of trees in planting strips as provided by the Forester.

20.40.120 Protection.

- A.** It shall be unlawful for any person to attach or keep attached to any tree in or upon any public street, or to the guard or stake intended for the protection of such

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tree, any ropes, wires, chains or other device whatsoever, except that the same may be attached to any tree as support or protection thereof.

- B.** During the erection, repair, alteration or removal of any building or structure, it shall be unlawful for any tree to be injured or for any person in charge of such erection, repair, alteration or removal to leave any tree in or upon any street in the vicinity of such building or structure without a good and sufficient guard or protector as shall prevent injury to such tree arising out of or by reason of such erection, repair, alteration or removal.

20.40.130 New Streets.

(Amended by Ordinance No. 182671, effective May 15, 2009.) Any proposed change in width in a public street right-of-way or any proposed street improvement shall, where feasible, include allowances for tree and landscape planting. Plans and specifications for planting such areas shall be integrated into the general plan of improvements and it shall be the duty of the City Engineer to coordinate the design of such improvements with the Forester and Bureau of Planning and Sustainability prior to completion of final overall plans.

20.40.140 Liabilities and Responsibility for Costs.

Nothing in this Chapter shall be deemed to impose any liability upon any member of City Council or the City or any of its officers or employees nor to relieve the owner or occupant of any private property from the duty to keep his/her private property, sidewalks, planting strip and trees in front of such private property in a safe condition so as not to be hazardous to public travel nor to relieve said property owner of the obligation to pay the cost of planting, removal and replanting of street trees in the planting strip adjacent to the property of said property owner or to relieve said property owner of liability to persons injured or otherwise damaged by reason of the property owner's failure to keep his/her private property, sidewalks, planting strips and trees fronting such private property in a safe condition so as not to be hazardous to public travel, as required by Titles 16, 17 and 20 of the Code of the City of Portland. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by Title 16, 17, 20 and 33 of the Code of the City of Portland.

20.40.150 Heritage Trees.

(Replaced by Ordinance No. 165530; amended by Ordinance No. 166542, effective May 19, 1993.)

- A.** The Forester shall prepare or cause to be prepared as soon as possible after passage of this Section and annually thereafter, a list of trees within the City which, because of their age, size, type, historical association or horticultural value, are of special importance to the City. Upon recommendation of the Urban

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Forestry Commission, the Council may designate such a tree a “Heritage Tree”, provided that the tree’s health aerial space and open ground area for the root system have been certified as sufficient by a qualified arboriculturist. No tree standing on private property shall be designated a “Heritage Tree” without the consent of the property owner; however, the consent of a property owner shall bind all successors, heirs and assigns. Upon unanimous recommendation of the Urban Forestry Commission, the Council may remove the designation of any tree as a Heritage tree if it finds that such designation no longer is appropriate.

- B.** When a tree is designated as a Heritage Tree, a plaque so signifying may be placed near the tree. The Forester shall maintain all Heritage Trees located on City property or on public rights of way within the City. Subject to the requirements and limitations of subsections C and D of this section, it shall be the duty of every owner of property upon which a Heritage Tree is standing to maintain that tree. The Forester may give advice and assistance to property owners regarding proper maintenance of Heritage Trees. If, in the judgment of the Forester, a Heritage Tree, whether standing on public or private property, has become a hazard, the Forester shall have the authority to effect its removal, subject to the requirements of Subsection D of this Section.
- C.** It shall be unlawful for any person, without a prior written permit from the Forester, to remove, destroy, cut, prune, break, or injure any Heritage Tree, to injure, misuse or remove any device set for the protection of any Heritage Tree, or to cause or authorize or procure any person to do so. The Forester shall report to the Urban Forestry Commission all such permits issued.
- D.** No Heritage Tree shall be removed without the consent of the Urban Forestry Commission after a public hearing.

20.40.160 Disposition of Wood from Trees.

All wood removed from trees located in either public rights-of-way or public areas shall be disposed of at the discretion of the Forester who has complete authority for the disposal of said wood and debris. In the event that the wood is given to the adjoining property owner, the property owner shall sign an agreement holding the City harmless. If the Forester determines that the cost of storage or sale of the wood is not commercially feasible, he/she may cause such surplus wood to be donated to such groups or organizations as may be designated from time to time by the Superintendent of Parks. It shall be unlawful to possess or dispose of any wood from any tree that has been cut or pruned in violation of the provisions of this Chapter. Publicly financed and privately financed street improvements under permit from the City Engineer are excluded from this Section.

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20.40.170 Nuisances - Abatement Procedure.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A. Any condition of any tree upon, abutting or fronting private property which is in violation of any of the provisions of this Chapter or any other applicable Chapter of the City Code, is hereby declared to be a nuisance. Except for those conditions which this Chapter authorized the Forester to summarily abate, whenever the Forester has knowledge that such nuisance exists, he/she shall post upon the property liable for the abatement of the nuisance a notice directing the removal of the nuisance. The notice shall be substantially in the following form:

NUISANCE ABATEMENT

Notice To Abate Nuisance

To the owner, agent of owner and occupant of the following described real property:

in the City of Portland, Oregon.

You are hereby notified to remove and abate the nuisance existing on the above-described property within 15 days of the date of this notice, or show the Bureau of Parks and Recreation of the City of Portland that no nuisance exists as provided in Section 20.40.180 of the Code of the City of Portland. The nuisance consists of:

In the case of failure to remove the nuisance within the time set forth above, the City of Portland will cause the nuisance to be abated and charge the cost of abatement, Auditor's fee, County Recorder's fee, plus any overhead costs incurred and a civil penalty in the amount of \$300 against the property described above. The owner of the above-described property shall be personally liable for the costs of abatement, Auditor's fee, County Recorder's fee plus any overhead and civil penalties.

Before planting, removing, destroying, cutting, pruning or treating any tree in or upon any street, you must obtain a permit from the City Forester.

Date: _____

City Forester for the Director of Parks

- B.** When summary abatement is authorized, notice to the owner, agent or occupant of the property prior to abatement is not required. Following summary abatement, the Bureau of Parks and Recreation shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance.
- C.** “Summary abatement” as used in this Chapter means abatement of the nuisance by the City, or a contractor employed by the City, by removal, repair or other acts necessary to abate the nuisance and without notice to the owner, agent or occupant of the property except for the notice required by this Section.
- D.** Upon posting of the notice described in Subsections A and B of this Section, the Director or the Forester as his/her designee shall cause a copy of the notice so posted to be mailed with the postage prepaid to the owner or agent of the owner or real property, directed to his/her last known address or, if that address is unknown, to the owner or agent at the address of the property.
An error in the name of the owner or agent or the use of a name other than that of the true owner or agent of the property shall not render the notice void, but in such case, the posted notice shall be deemed sufficient.

20.40.180 Abatement by Owner, Administrative Review, Appeal to the Code Hearings Officer.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** Within 15 days after the posting and mailing of a notice to remove the nuisance, the owner, agent of the owner or occupant of the affected property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing may be made by filing a written statement that no nuisance exists, with the City Forester. Upon receipt of the statement, the City Forester shall schedule the matter for administrative review as set out in 20.40.185 of this Title. Notice of the time and place of administrative review shall be given to the person filing the statement not less than 5 days prior to the time set for the review.
- B.** Any person aggrieved by the determination of the administrative review may appeal such determination to the Code Hearings Officer as set out in Chapter 22.10 of this Code.

20.40.185 Administrative Review.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** Upon the request of the person filing the statement described in Section 20.40.180 of this Code, or, if a nuisance has already been abated by the City, upon referral from the Auditor, pursuant to Section 20.40.195, the Forester shall review his/her actions and decisions concerning the alleged nuisance.

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- B.** The owner, agent of the owner or occupant of the subject property shall be given the opportunity to present evidence to the Forester in the course of said review.
- C.** In those instances where the nuisance has been abated by the City, the City Forester shall have discretion to waive the cost of abating a nuisance, in whole or in part, if, in the course of its review of its decision, the Bureau finds that any of the following did not conform to the provisions of this Code:
 - 1.** The notice to remove the nuisance;
 - 2.** The work performed in abating the nuisance;
 - 3.** The computation of charges.

20.40.190 Abatement by the City.

(Amended by Ordinance No. 178215, effective February 25, 2004.)

- A.** If within the time fixed in this Chapter, the nuisance described in the notice has not been abated, or cause shown as specified in Section 20.40.180 why such nuisance should not be removed or abated, or where summary abatement is authorized, the City Forester may cause the nuisance to be removed and abated.
- B.** Except as set forth in Section 20.40.205 whenever a nuisance is abated by the City, the City Forester shall keep an accurate account of all expenses incurred, including cost of abatement, Auditor's fees, County Recorder's charges and a civil penalty of \$300 for each nuisance abated.
- C.** When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property owned by the same person, an additional civil penalty of 50 percent (minimum of \$50) of the cost of abatement shall be added to the costs, charges and civil penalties provided for in Subsection B of this Section. The civil penalty shall be imposed without regard to whether the nuisances abated by the City involve the same real property or are of the same character.
- D.** The City Forester shall, after completing the removal and abatement, file a statement of costs with the Auditor.

20.40.195 Notice of Assessment.

(Replaced by Ordinance No. 178215, effective February 25, 2004.)

- A. Whenever a nuisance is abated by the City, the City Forester shall keep an accurate account of all expenses incurred, including a civil penalty of \$300.00 plus overhead charges of contractor's costs and County Recorder's fees for each nuisance abated.
- B. When a property meets the conditions for costs or penalties as described in this section, the Bureau of Parks and Recreation shall file a statement of such costs or penalties with the Auditor. Upon receipt of the statement, the Auditor shall mail a notice to the property owner, stating the City's intent to assess the property in question the amount due plus charges to cover the administrative costs of the City Auditor. In the event the amount due set forth in the notice is not paid in full within 30 days of the date of the notice, the Auditor shall enter that amount or the amount of the unpaid balance, plus charges to cover the administrative costs of the City Auditor in the docket of City liens which shall thereafter constitute a lien against the property.
- C. A determination issued pursuant to Subsection 20.40.195 A. may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of the City Code. The Auditor shall not enter any amount on the lien document under Subsection 20.40.195 B. as to any charge which has been appealed to the Code Hearings Officer under this subsection, until the appeal has been decided and the period for seeking judicial review has passed, or any judicial review has become final.

20.40.200 Personal Liability of Owner.

The person who is the owner of the property at the time at which the notice required under Section 20.40.170 of this Code is posted shall be personally liable for the amount of the assessment including all interest, civil penalties and other charges.

20.40.205 Cost of Abatement; Low Income, Elderly Persons.

(Amended by Ordinance No. 168234, effective October 26, 1994.)

- A. Notwithstanding the other provisions of this Chapter, the cost of abating a nuisance shall be waived for low income, elderly persons if upon application it appears to the Superintendent that the conditions set forth in Subsection B. are met.
- B. Persons eligible for a waiver of nuisance abatement costs shall be over 62 years of age, and:
 - 1. A person living alone, whose total income for the preceding calendar year did not exceed 1-1/2 times the maximum amount a Social Security

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recipient at age 65 may have earned in that year without having any benefits withheld; or the head of a household which household received a total income for the preceding calendar year that did not exceed 2-1/4 times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld; and

2. Must furnish proof of the age and income requirements set forth in Subsection B 1 of this Section in a manner and form acceptable to the Superintendent; and
 3. Must own, or be in the process of purchasing the property from which the nuisance is abated; and
 4. Be living on the property from which the nuisance is abated.
- C. The removal of the nuisance in question must have been required by the Superintendent and the person requesting the waiver of costs must have been officially notified by the Superintendent to remove the nuisance.
- D. Applications for waiver of nuisance abatement costs shall be filed with the Superintendent, on forms supplied by the City, within 10 days after receipt of a notice to remove nuisance or a work order notice unless the Superintendent extends that time on good cause shown. All information required to be given on such form shall be supplied and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each removal notice sent to the applicant.
- E. The maximum amount which may be waived under this Section for any one parcel of real property or any one person shall be \$750 per calendar year.
- F. No overhead charge or civil penalty shall be imposed for any real property for which a waiver, pursuant to this Section, shall have been approved.

20.40.210 Criminal Penalty.

Any person, firm or corporation violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000 or shall be imprisoned for a term not exceeding 6 months or shall be punished by both such fine and imprisonment.

20.40.215 Civil Penalties.

(Added by Ordinance No. 181799, effective June 6, 2008.)

- A. Any person who cuts or removes any tree that is subject to the provisions of this Chapter, or who contracts for, pays for or otherwise allows or suffers such cutting or removal, if such cutting or removal is undertaken without a permit as required

by this Chapter or in non-compliance with any term, condition, limitation or requirement of such permit, shall be subject to a civil penalty as provided in this Section. For purposes of this Section, each tree shall constitute a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit shall also constitute a separate violation. The Forester, or the Forester's designee, is authorized to initiate proceedings before the Code Hearings Officer, pursuant to the procedures in Title 22 of this Code, to enforce the provisions of this Section.

1. For each separate violation, a civil penalty of up to \$1,000 may be assessed.
2. In determining the amount of any civil penalty to be assessed, the Code Hearings Officer will consider the following:
 - a. The nature and extent of the responsible party's involvement in the violation;
 - b. The benefits, economic, financial or otherwise, accruing or likely to accrue to the violator as a result of the violation;
 - c. Whether the violation was isolated and temporary, or repeated and continuing;
 - d. The magnitude and seriousness of the violation;
 - e. The City's cost of investigation and remedying the violation;
 - f. Any other applicable facts bearing on the nature and seriousness of the violation.

20.40.220 Civil Remedies.

In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any tree in violation of this Chapter. In any such action, the measure of damages shall be the actual replacement value of the damaged or destroyed tree(s).

20.40.230 Institution of Legal Proceedings.

In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Chapter.

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20.40.235 Notification to Planning and Sustainability Commission.

(Added by Ordinance No. 163739; Amended by Ordinance No. 184046, effective September 10, 2010.) Prior to the adoption of any amendments to Chapter 20.40, the Forester will submit a copy of the proposed amendments to the Planning and Sustainability Commission for its review and comments.

20.40.240 Severability.

In any provision of this Chapter, or its application to any person or circumstances, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

Chapter 20.42

TREE CUTTING

(Chapter replaced by Ordinance No. 170775,
effective January. 10, 1997.)

Sections:

20.42.010	Purpose.
20.42.020	Definitions.
20.42.030	Applicability.
20.42.040	Tree Cutting Without Permits Prohibited.
20.42.050	Tree Cutting on Unregulated Property.
20.42.060	Application for Permits.
20.42.070	Fees.
20.42.080	Review of Applications.
20.42.090	Criteria for Issuance of Permits.
20.42.100	Mitigation Requirement.
20.42.110	Notice of Tree Cutting Permit.
20.42.120	Appeal.
20.42.130	Evidence of Violation.
20.42.140	Criminal Penalties.
20.42.150	Civil Penalties.
20.42.160	Nuisances.
20.42.170	Institution of Legal Proceedings.
20.42.180	Remedies Cumulative.
20.42.190	Severability.

20.42.010 Purpose.

The purpose of this is to regulate the cutting of trees in order to help preserve the wooded character of the City of Portland and protect the urban forest. It is not the intent of this Chapter to regulate the cutting of trees on any single-family lot, which cannot further be divided, upon which a single-family residence already exists. Further, it is not the intent of this Chapter to require a permit for tree cutting in situations where the same activity is already regulated and reviewed by other provisions of the City Code.

20.42.020 Definitions.

- A. “Cutting”** means felling or removal of a tree, or any procedure in which the natural result will lead to the death or substantial destruction of a tree. Such acts include but are not limited to the severe cutting back of limbs to stubs larger than three inches in diameter; and damage inflicted upon the root system of the tree. “Cutting” does not include normal pruning within the bounds of accepted arboricultural practices.

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- B.** “**DBH**” means diameter-at-breast-height, a tree trunk diameter measured in inches 4.5 feet above the ground.
- C.** “**Development**” means all site improvements, including buildings, structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.
- D.** “**Land Use Review**” means an approval procedure for a specific use or development required under Title 33 or 34.
- E.** “**Person**” means any individual or legal entity.
- F.** “**Regulated property**” means all property where tree cutting is not otherwise regulated under Title 33 or 34, where trees have not be considered through a previous land use review, and which:
 - 1. Does not have a single-family dwelling on it; or
 - 2. Can be further subdivided pursuant to the Portland Zoning or Land Division Codes, whether there is a structure on the property or the property is vacant; or
 - 3. Is not located in a single-family residential zone pursuant to City of Portland Zoning Maps; or
 - 4. Is not solely used as a single-family residence.
- G.** “**Tree**” means any woody plant having at least a 12” DBH or any tree planted as a mitigation requirement of PCC 20.42.100. “Tree” does not include any plant on the Nuisance Plant List or the Prohibited Plant List of the Portland Plant List adopted by Ordinance 164838 and amended by Ordinance 166572 and 168154.
- H.** “**Urban Forester**” means the Urban Forestry Manager or the Manager’s designee.
- I.** “**Unregulated property**” means a lot or parcel which:
 - 1. Is located in a residential zone pursuant to the City of Portland Zoning Maps;
 - 2. Is occupied by a single-family dwelling;
 - 3. Is solely used as a single-family residence; and

4. Cannot be further subdivided or partitioned pursuant to the Portland Zoning or Land Division Codes.

20.42.030 Applicability.

- A. These regulations are not land use regulations and are being adopted under the City's police power to regulate to protect the public health, safety and welfare.
- B. The requirements of this Chapter do not apply to tree cutting which is reviewed pursuant to any other provision of City Code with the exception of Chapter 24.70, Clearing, Grading, and Erosion Control, particularly PCC 24.70.020. On parcels subject to PCC 24.70.020, a permit is required under both that Section and under this Chapter.
- C. The requirements of this Chapter do not apply to tree cutting on any parcel for which a building or development permit has been approved through land use review.

20.42.040 Tree Cutting Without Permits Prohibited.

- A. No person shall cut a tree on regulated property without first obtaining a tree cutting permit from the City pursuant to this Chapter.
- B. No person shall cut a tree on unregulated property without a permit if a permit is required by PCC 20.42.050.
- C. In any action under this Chapter or to enforce the provisions of this Chapter, the property owner has the burden to prove that the criteria for granting a permit are satisfied or that cutting is allowed without a permit.

20.42.050 Tree Cutting on Unregulated Property.

- A. Trees may be cut on unregulated property without a permit except where the tree proposed to be cut:
 1. Has been expressly protected through an applicable land use regulation or required to be preserved as a condition of approval; or
 2. Is located within a parcel that has received a Historic Landmark Designation pursuant to PCC Chapter 33.845; or
 3. Has been designated a Heritage Tree under the provisions of Section 20.40.150 of this Code.

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- B.** If a permit is required under Subsection A. of this Section, a person must seek such a permit through the process for reviewing or modifying land use regulations or approvals, Historic Landmark Designations or Heritage Tree designations, as applicable, and not through this Chapter.

20.42.060 Application for Permits.

An application for a tree cutting permit shall be made upon forms prescribed by the City. The application shall contain:

- A.** A statement of the reason for cutting or removal;
- B.** The number, size and species of the trees to be cut;
- C.** The street address and legal description of the property upon which the trees to be cut are located;
- D.** The time and method of cutting or removal;
- E.** If mitigation is required pursuant to PCC 20.42.090 information concerning the proposed planting of new trees to replace the trees to be cut;
- F.** Any other information reasonably required by the City;
- G.** The applicant's name, address and phone number;
- H.** The property owner's name, address and phone number, if different from the applicant's.

20.42.070 Fees.

The application shall be accompanied by a filing fee in the amount of \$35.00.

20.42.080 Review of Applications.

- A.** The Urban Forester shall review applications for conformance to the provisions of this chapter and either accept as complete and in conformance, return for revisions, or deny the application.
- B.** If the application is accepted as being complete and in conformance, the Urban Forester shall not issue the permit until notice has been posted according to Section 20.42.110 of this Code and all appeals have been settled in favor of the applicant.

- C. The issuance of the Tree Cutting Permit shall constitute conformance to the provisions of these regulations and approval for the tree removal.
- D. Notwithstanding subsection A of this Section, if the tree proposed to be cut has been required to be preserved or protected as a condition of approval of a land use action pursuant to the City of Portland Zoning Code, the tree cutting application shall be processed as an amendment to that land use action and shall be reviewed and approved by the body responsible for reviewing such land use actions.

20.42.090 Criteria for Issuance of Permits.

The tree to be removed must meet one of the following criteria in order for a tree cutting application to be approved:

- A. Dead, Dying and Dangerous Trees: A tree cutting permit shall be issued if the Urban Forester determines that a tree is dead, dying or dangerous, except as provided by subsection 2 of this section.
 - 1. For the purposes of this section:
 - a. “Dead” means the tree is lifeless.
 - b. “Dying” means the tree is in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees.
 - c. “Dangerous” means the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 - 2. The Urban Forester may require the retention of dead or dying trees located in wetlands, natural areas, stream corridors, parks or open space areas, in order to provide for wildlife habitat and natural processes, unless the tree presents a potential hazard to persons or property.
- B. Trees that are not dead, dying or dangerous: A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the following criteria are met:
 - 1. Removal of the tree will not have a significant negative impact on the following:

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- a.** erosion, soil stability, soil structure, flow of surface waters, water quality, health of adjacent trees and understory plants, or existing windbreaks; and
 - b.** the character, aesthetics, property values or property uses of the neighborhood.
- 2.** The city shall require an adequate mitigation plan be submitted according to the requirements of Section 20.42.100 as a condition of approval for the permit, including requiring the submission of a drainage plan if appropriate This mitigation plan may be considered when determining the impacts in Subsection B.1. of this Section.
- 3.** Forest Health Reasons: A tree cutting permit shall be issued for a tree that is not dead, dying or dangerous if the Urban Forester determines that the removal of select trees from a forested plot will promote the health of the overall forested plot and meets the requirements of PCC 20.42.090 B.1. Mitigation is not required for any tree permitted to be cut under this subsection.
- 4.** Emergency Permits:
 - a.** The Urban Forester shall issue an emergency tree cutting permit without formal application or payment of a fee if the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property. For purposes of this subsection, “immediate danger of collapse” means that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. “Immediate danger of collapse” does not include hazardous conditions that can be alleviated by pruning or treatment.
 - b.** If an emergency situation arises at a time when the Urban Forester is unavailable, and a significant likelihood exists that the tree will topple or otherwise fail before such officials become available, the tree owner may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days after such removal, the tree owner shall apply for a retroactive emergency tree cutting permit. If the evidence and information presented by the tree owner does not justify the emergency tree cutting standards set forth in PCC 20.42.090 B. the application shall be denied and the tree owner shall be subject to the penalties and to the mitigation requirements of this Chapter.

- c.** In the event that the City Engineer or the Urban Forester determines that an emergency exists and that the safety of the traveling public or the integrity of a public street and associated improvements may be at imminent risk from any tree on private property, the City Engineer and the Urban Forester may order or effect the removal of the tree without a permit. An emergency for the purpose of this Subsection is an unplanned or non-routine event which, by its nature, requires prompt or immediate action to reduce the risk of injury to persons using public streets, damage to public transportation facilities or loss or use of public transportation facilities. The decision that an emergency exists is not reviewable.

20.42.100 Mitigation Requirement.

- A.** Mitigation is required as a condition of a permit issued under PCC Subsection 20.42.090 B., or if a tree is cut in violation of this Chapter. The mitigation plan shall be submitted at the time of application and shall provide for the following:

 - 1.** Tree replacement shall be determined according to the DBH of the tree to be removed. The total DBH of the replanted trees shall equal the DBH of the tree to be removed. The DBH of the replacement trees must be the largest reasonable available by local nurseries.
 - 2.** The location of the replacement trees shall meet one or more of the following at the discretion of the Urban Forester:

 - a.** In the public right-of-way adjoining the property where the tree to be removed is located, in accordance with PCC 20.40.070. The Urban Forester shall consult with the City Engineer to avoid conflict with current and future utilities.
 - b.** On the property where the tree to be removed is located. Site characteristics shall be taken into consideration.
 - c.** If no suitable place exists on the property where the tree to be removed is located or in the adjoining right-of-way, the applicant may plant trees on another property in the neighborhood with the permission of the property owner.
 - d.** If no suitable place exists on the property where the tree to be removed is located, the applicant may, in lieu of planting, pay a mitigation fee into the City's tree fund in accordance with fees set by the Urban Forester.

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- B.** When the Urban Forester determines that the above mitigation requirements create an unreasonable burden to a property owner, the Urban Forester may adjust the mitigation requirements. Mitigation shall not be reduced if it is determined that an intentional violation exists.
- C.** If any replacement tree dies within three years of the planting, the property owner shall replace the tree. No replacement tree shall be cut without a permit under this Chapter.
- D.** Any person who fails to enter into a mitigation plan as required by this subsection or who fails to comply with any condition of that agreement, or with any condition of any permit issued under PCC 20.42.090 B., shall be subject to the penalties provided for violation of the Chapter.

20.42.110 Notice of Tree Cutting Permit.

- A.** An applicant for a tree cutting permit shall post notice on the property in a location clearly visible from the street nearest the tree. The notice shall state that a tree cutting permit is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that the tree cutting permits can be appealed within 14 days of the date of posting by filing a written notice of intent to appeal with the Urban Forester. The applicant shall mark each tree proposed to be cut by tying or attaching yellow plastic tagging tape around the trunk of the tree at 4.5 feet above ground level. The applicant shall file an affidavit of posting and marking once the property has been posted and the trees have been marked pursuant to this section. The tree cutting permit shall not be issued for fourteen days from the date of filing of the affidavit of marking to allow for appeal. The applicant shall maintain the posting and marking for the full fourteen days.
- B.** The Urban Forester will send a copy of the affidavit of posting and marking to the office of the affected Neighborhood Coalition.

20.42.120 Appeal.

- A.** Any person may appeal a decision to approve a tree cutting permit by filing a written notice of intent to appeal, along with the applicable appeal fee established by the City Council, within fourteen days of the filing of the affidavit of posting pursuant to PCC 20.42.070. Failure to file within the fourteen-day appeal period shall preclude appeal. If no appeal of a decision to approve a tree cutting permit is filed within the fourteen-day appeal period, the decision is final and the applicant may cut trees in accordance with the approval, subject to any conditions thereof.

- B.** An applicant for a tree cutting permit may appeal denial of the permit by filing a written notice of intent to appeal, along with a filing fee in the amount of \$100.00, within fourteen days of the date of denial.
- C.** The appeal shall be heard by the Urban Forestry Commission (UFC), who shall hold a public hearing on the appeal. The City shall send written notice of the hearing to the applicant, the appellant if different from the applicant, and to the recognized Neighborhood Coalition for the area in which the subject property is located, at least ten days in advance of the hearing. Appeal hearings may be scheduled as part of the UFC's regular meeting agenda, or at any special meeting called by the UFC for that purpose. Appeals may be heard either by the full Commission or by a subcommittee delegated by the full Commission. Appeals shall be heard not later than the first regular monthly meeting of the UFC after the expiration of the ten days required for notice to the Neighborhood Coalition, and in no event later than sixty days after the filing of the notice of intent to appeal, except that the applicant may request a hearing at a later time.

20.42.130 Evidence of Violation.

- A.** If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 38" or more in circumference shall be considered prima facie evidence of a violation of this chapter.
- B.** Removal of the stump of a tree cut without a tree cutting permit prior to the determination provided in subsection A of this section is a violation of this chapter.
- C.** Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
- D.** As soon as a violation is determined, the Urban Forester shall notify the property owner in writing regarding the mitigation requirements of Section 20.42.100 of this code. Within thirty (30) days of the date of mailing of this notice, the property owner shall submit a tree cutting application in accordance with Section 20.42.060 and enter into a mitigation plan approved by the Urban Forester. The application fee will be \$70.00.

20.42.140 Criminal Penalties.

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding \$1,000.00 or shall be imprisoned for a term not exceeding 6 months, or shall be punished by both such fine and imprisonment.

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20.42.150 Civil Penalties.

Any person who cuts any tree in violation of this chapter, or who breaches any condition of a permit granted under this chapter, or who violates any other provision of this chapter shall be subject to a civil penalty of \$1,000 for any such violation. The unlawful cutting of each individual tree shall be a separate violation hereunder. Failure to comply with a condition of approval or of a mitigation plan shall be a separate violation each day the failure to comply continues.

20.42.160 Nuisances.

Cutting a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings.

20.42.170 Institution of Legal Proceedings.

Upon request of the Urban Forester, or direction from Council, the City Attorney, acting in the name of the City, may institute and maintain an action in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this Chapter.

20.42.180 Remedies Cumulative.

The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

20.42.190 Severability.

If any provision of this Chapter, or its application to any person or circumstance, is held to be invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, shall not be affected.

TITLE 20
PARKS & RECREATION

Chapter 20.44

**NONRESIDENT PARTICIPATION
FEES**

(Chapter repealed by Ordinance No. 158454,
effective May 1, 1986.)

Chapter 20.48

ST. JOHNS RACQUET CENTER

(Chapter repealed by Ordinance No. 164427,
effective July 10, 1991.)

TITLE 20
PARKS & RECREATION

Chapter 20.50

**COLUMBIA SOUTH SHORE
SLOUGH TRAIL**

(Chapter added by Ordinance No. 166785,
effective July 21, 1993.)

20.50.010 Prohibited Activities.

It shall be unlawful to ride a bicycle or to have domestic animals leashed or unleashed on the Columbia South Shore Slough Trail. The trail area is defined by Title 33, Map 515-2. This provision does not apply to police officers who may have the need for the use of horses or bicycles during their official performance of duties.

The Chief Engineer and the Administrator of the Portland Water Bureau may dispose of other real property interests and related documents no longer needed for public water system purposes.

- C. Lease and License Agreements: The Administrator may approve, accept, and amend on behalf of the City Council, leases, licenses, permits, or other similar agreements for use by others of Water Bureau property upon such terms and conditions as the Administrator deems to be in the best interest of the City and when approved as to form by the City Attorney.

21.12.340 Identification of Meter Readers and Inspectors.

(Added by Ordinance No. 182053, effective August 15, 2008.) Each employee of the Portland Water Bureau going onto private premises for purposes such as, but not limited to, reading, inspecting, or testing any metering device installed under the provisions of this Title shall wear identification from the Bureau in a conspicuous place upon the exterior of his or her clothing. The identification will be shown upon demand of any owner or person in charge of the premises entered.

TITLE 21 WATER

Chapter 21.16

RATES AND CHARGES

Sections:

21.16.010	Annual Water Rates.
21.16.020	Annual Statement To Be Filed.
21.16.030	Billing Responsibility.
21.16.040	Delinquent Utility Bills.
21.16.070	Work Orders.
21.16.080	Dates and Places of Payment.
21.16.090	Deposit and Application.
21.16.100	Deposit of Money Received.
21.16.110	Bureau May Contract for Collection of Revenues.
21.16.120	Collections, Adjustments and Refunds.
21.16.130	Adjustments on Account of Leaks.
21.16.140	Authority to Estimate Bills.
21.16.150	Testing Meters.
21.16.160	Service Installation Fees.
21.16.170	System Development Charge.
21.16.180	Water Connection Assistance.
21.16.190	Charges for Water Used to Extinguish a Fire.
21.16.200	Charges for Unauthorized Use of Fire Protection Service.
21.16.220	Billing and Collection for Others by Contract.

21.16.010 Annual Water Rates.

The Portland City Council approves and sets water rates for each fiscal year that will provide an estimated income to equal expenses and debt service relating to water bonds. (Section 11-105 of the Portland City Charter). The Bureau prepares the proposed annual water rate ordinance and the City Attorney reviews the ordinance. The Bureau files the ordinance with the Auditor not later than May 20 of each year.

21.16.020 Annual Statement To Be Filed.

An annual detailed statement of its income and expenditures shall be made and signed by the Administrator and shall be filed with the Auditor, who shall preserve the same among the files of his or her office. This annual report shall include a statement of the financial condition and pertinent engineering data of the Bureau of Water Works.

21.16.030 Billing Responsibility.

(Replaced by Ordinance No. 182053; amended by Ordinance No. 185521, effective August 24, 2012.) The ratepayer responsible for payment of water charges shall be the property owner as verified in county tax records, the water user occupying the property,

or the party otherwise in possession or control of the property. A property owner may become obligated for charges for furnishing water to the user by accepting responsibility for payment thereof or by agreement with the Portland Water Bureau.

Water charges are billed daily, regardless of whether the property has no structure on it or if the structure is occupied or vacant. The property owner, or the party otherwise in possession or control of the property, is responsible for all water charges while a property is vacant.

When a single meter serves multiple dwellings or living units at a property, the property owner(s) shall be responsible for the charges related to water use at the premises unless a party who is not the owner confirms with the Bureau the acceptance of that responsibility in a manner that conforms with Bureau policy.

Either a property owner or a renter may notify the Bureau of the date to open or close an account for a renter. The Bureau will honor the first date on which the request was received to open or close the account. The Bureau will change this date if agreed to by all other affected parties. The Bureau will not mediate a dispute between landlord and renter regarding the dates when billing responsibility changes. The property owner is responsible for all water charges when no renter has accepted responsibility for water charges. If neither a renter nor owner notifies the Bureau that a renter has left tenancy and the Bureau determines by a visit to the property that the property is vacant, water charges shall commence on that date and shall be applied to the owner.

Where a ratepayer has a delinquent bill for one premises, this delinquency shall be a charge against this ratepayer (for water obtained) at any of his or her other premises served by the Bureau.

When a property is sold, the seller is responsible for all water charges until the date the buyer is entitled to possession. If there is a dispute between the seller and the buyer about the date of possession, the Bureau will use Multnomah County taxation records to verify the legal recording date.

21.16.040 Delinquent Utility Bills.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.)

- A.** The Portland Water Bureau shall have the authority to shut off water service to any property when any charge to a ratepayer's account has not been paid within 10 days after that charge is due and payable.

Before water service is shut off for nonpayment the Portland Water Bureau shall give written notice to the service address provided by the water user as well as to the mailing address of the property owner or the party who has agreed with the Bureau to accept responsibility for payment. Such notice shall state the anticipated date when the water will be shut off, as well as informing the ratepayer of his or her right to request an administrative review, and the procedure for requesting the review, to challenge the shut off.

It is the obligation of the water user or responsible party to ensure that the Water Bureau has the most current and accurate address for the user or responsible party.

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There is no obligation on the part of the Bureau to determine if the address provided is the best or the most current address.

Once service is shut off, water shall not be provided again until all outstanding obligations for water provided to that user have been paid, or arrangements for payments have been made with the Water Bureau, including additional charges as established in the annual water rate ordinance.

The Portland Water Bureau may, but is not obligated to, allow for continuation of water service for a specified period of time prior to payment of outstanding charges if it is determined that the lack of water will endanger health or cause substantial hardship. The continuation of water service may also be allowed when the delinquent ratepayer is willing to enter into a payment arrangement satisfactory to the Bureau for payment of all delinquent amounts on that ratepayer's account. However, if the charges are not paid as agreed, then the water may again be shut off and not turned on again until the outstanding charges are paid in full or arrangements for payments are made with the Bureau.

The Portland Water Bureau may institute legal proceedings and contract with third parties for the collection of delinquent water bills and charges. The Bureau may require that a deposit be made with the Bureau to ensure payment of future water bills and charges.

- B.** When the delinquent bill includes user charges for sanitary sewer and stormwater management services, the Portland Water Bureau shall collect such charges pursuant to Section 21.16.040.

When the delinquent bill does not include charges for water service, delinquent user service charges for sanitary sewer and stormwater management services shall be collected by any legal means pursuant to Sections 3.24.020 and 3.24.030.

21.16.050 Notice for Billing of Rental Property and Responsibility for Charges When Property Is Vacant.

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

21.16.060 Responsibility for Water Charges When Property Changes Ownership.

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

21.16.070 Work Orders.

(Amended by Ordinance No. 182053, effective August 15, 2008.) Work orders for main extensions, service connections, and meter installations for which a deposit or charges are or may be made under this Title, shall be established by the Engineering Services Group of the Bureau.

21.16.080 Dates and Places of Payment.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Charges for water use will be computed, and bills mailed, on a schedule determined by the Portland Water Bureau. The billing schedule will be kept on file by the Bureau. The

water bill, with a due date, will be payable at either the Bureau or at authorized locations established by written agreement with the Bureau.

21.16.090 Deposit and Application.

(Amended by Ordinance No. 182053, effective August 15, 2008.) An application, deposit, or both, for water service may be required from all new ratepayers, ratepayers whose service has been shut off for nonpayment, or those persons with unsatisfactory credit who are requesting service. Unsatisfactory credit is defined as not meeting credit and collection industry standards or having service shut off for nonpayment of water or sewer charges within the past year. Failure to provide either the application, deposit, or both within the due date specified by the Portland Water Bureau may result in discontinuance of service.

21.16.100 Deposit of Money Received.

(Amended by Ordinance No. 182053, effective August 15, 2008.) All monies collected or received by the Portland Water Bureau for the use and consumption of water or otherwise will be deposited with the bank designated by the Treasurer of the City. The Treasurer shall keep the same separate and apart from the other funds of the City in funds to be known as the Water Fund and the Water Construction Fund, and pay it out only on checks signed by the Mayor, countersigned by the Auditor, and not otherwise.

21.16.110 Bureau May Contract for Collection of Revenues.

The Commissioner-In-Charge of the Bureau and the Auditor are hereby authorized to enter into contracts for periods not to exceed 5 years with such persons or corporations as may be selected by the Administrator for the collection of water revenue for the City. The contracts shall provide for compensation for collection and may cover certain expenses related to revenue collection. The contracts shall require that a bond be furnished by the collection agent or the City, at the City's option, the premium for such bond may be paid for by the City. The bond shall be conditioned upon the performance of such contract, and shall be in such form as may be satisfactory to the Administrator and the City Attorney.

21.16.120 Collections, Adjustments and Refunds.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) Water user charges will be computed monthly, bimonthly or quarterly and billed by the Portland Water Bureau.

All payments for water user charges shall be made to, and adjustments and refunds made by, the Portland Water Bureau. The Bureau shall ensure that charges and credits are posted to ratepayer accounts.

- A. The Portland Water Bureau may make adjustments, pay refunds or waive fees and charges where it is deemed necessary for the proper conduct of the business of the Bureau. Adjustments shall be in the form of credits or additional charges to an

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WATER

active account. When the adjustment is a credit to a ratepayer who has no active account, a refund shall be issued if the ratepayer can be located.

When a billing error occurs, the Bureau may authorize an adjustment of the water service account to correct the error. Adjustments may not exceed a period of three years from the date the Bureau received notice of the error. Eligibility for an adjustment on an account shall end six months after the date a final bill was issued for that account.

If a current ratepayer was not billed because the Bureau was not notified of his or her responsibility for payment, the Bureau shall issue the bill from the date the ratepayer became responsible for the bill as described in Section 21.16.030 Billing Responsibility.

- B.** Water system ratepayers who receive a back billing or a delayed billing will be offered the opportunity to pay the balance due over a period of time based on current City collection policies.
- C.** The Portland Water Bureau may establish administrative rules with the Bureau of Environmental Services governing the adjustment, refund or waiver of user charges including but not limited to sanitary sewer and stormwater management services.

21.16.130 Adjustments on Account of Leaks.

(Amended by Ordinance Nos. 179978 and 182053, effective August 15, 2008.) The Portland Water Bureau may make adjustments to water use charges where a leak exists in the water system on the property side of the meter. Reasonable efforts must be made within 30 days after the leak was detected to locate the leak and initiate repairs and have repairs completed within 90 days of notification.

21.16.140 Authority to Estimate Bills.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When a meter fails to register accurately, the Portland Water Bureau shall charge for water based on the historic usage of water at the premises. Estimated bills may also be issued if a meter reading cannot be recorded because the meter is inaccessible due to, but not limited to, inclement weather; overgrowth or other obstruction; failure to locate; or illegal usage bypasses the meter. Adjustments to the estimated bill shall be made consistent with the provisions of Section 21.16.120 "Collections, Adjustments and Refunds."

21.16.150 Testing Meters.

(Amended by Ordinance No. 182053, effective August 15, 2008.) When any water ratepayer makes a complaint that the bill for any particular billing period is excessive, the Portland Water Bureau will, upon request, reread the meter and inspect the service for leaks. Should the ratepayer then desire that the meter be tested, he or she shall make a deposit as prescribed in the annual water rate ordinance to cover the cost of making the test. If the tested meter is found to register 3% or more higher than the actual water flow

through the meter, the deposit will be refunded and the Bureau shall estimate the excess consumption and make an adjustment in the form of a credit on the bill immediately preceding and/or the current bill. In such instances the Bureau shall repair or replace the meter. If the tested meter is found to read within 3 % of the actual water flow through the meter, the Bureau will keep the deposit to cover the expense of the test.

21.16.160 Service Installation Fees.

The fees for installing and/or activating water service up to and including 1-inch in size shall be as provided in the annual water rate ordinance and shall be paid prior to service installation.

The fees for installing services greater than 1-inch shall be based on the Bureau's costs plus overhead, as provided in the finance regulations, Title 5 of the Code of the City of Portland. The applicant may choose to pay either a set price based on the Bureau's estimate or the actual cost of the installation. If the applicant accepts the Bureau's estimate as the set price these costs must be paid before the Bureau will perform the work. After a set price has been established, the Bureau will not refund or adjust installation charges unless changes in installation or location are requested by the applicant.

If the applicant chooses to pay the actual costs plus overhead he or she shall submit a deposit equal to the estimated cost before the Bureau will begin the work. When the estimated cost differs from the actual for labor, materials, and overhead the deficit shall be charged to the applicant or any excess payment shall be returned to the applicant.

In addition to the service installation fees, an applicant for new service must pay the System Development Charge, as described in Section 21.16.170 "System Development Charge" and as set in the annual water rate ordinance. If the service branch has been installed by a developer as allowed in section 21.12.110 "Installation of Service Pipes from the Main to the Property Line," the applicant will be charged for only the applicable system development charge and any charge for service activation as set in the annual water rate ordinance.

21.16.170 System Development Charge.

(Amended by Ordinance Nos. 182053 and 183448, effective July 1, 2010.) An applicant for a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes and affordable housing pursuant to Section 30.01.095, shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

21.16.180 Water Connection Assistance.

(Replaced by Ordinance No. 181715; amended by Ordinance No. 183447, effective July 1, 2010.) The City may provide water connection assistance to eligible property owners based on criteria established each year by City Council in the Annual Rate Ordinance.

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The Administrator may adopt administrative rules and procedures necessary to implement the water connection assistance criteria described in the Annual Rate Ordinance.

The City may grant payment deferrals and loans to property owners to finance City water system development charges, as provided in City Code Chapter 17.14 Financing Systems Development Charges. The Administrator may adopt administrative rules and procedures necessary to implement the deferred payment and loan programs.

21.16.190 Charges for Water Used through a Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) No charge shall be made for water used to extinguish a fire. Except as otherwise noted in this section, a property owner may use water from the City to test the fire protection system. Water used to pressure test a fire protection system will be registered on detector check metered firelines, or estimated on unmetered firelines. Flow testing a fire protection system requires that the Bureau install a metering device on the service to register the water used. Water used for testing a service for fire protection shall be charged at the commodity rates prescribed in the Water Rate Ordinance, as annually adopted by the City Council. Sewer charges will normally not be assessed for water used to test a fire protection system. Testing that results in a volume of water that is determined to have a measurable impact on the sewer system may subject that service to a sewer charge.

Testing of a fire service may not be conducted in a manner that will degrade the public water system. Flow testing through a fire service shall not reduce the pressure in the main less than 50% of maximum static pressure and shall in no case reduce the pressure below 30 lbs per sq. in. In this regard, prior to testing large flows, the individual conducting the test shall consult with the Bureau to determine limits of flow and to develop methods that may mitigate any detrimental effects on the public water system. Repeated testing of a fire service that violates a Bureau-approved testing program or affects the average daily water system conditions by more than allowable will result in a reclassification of the type of service and the collection of a System Development Charge.

21.16.200 Charges for Unauthorized Use of Fire Protection Service.

(Amended by Ordinance No. 182053, effective August 15, 2008.) A fire service is to be used to extinguish a fire, and is specifically not to be used for domestic, maintenance, or irrigation purposes. (See Section 21.12.220 "Fire Protection Service.")

There are progressively increasing charges for unauthorized use of water supplied through firelines. There is a commodity charge of three times the normal rate for water for the first unauthorized use, and ten times the normal rate for all later unauthorized uses. If unauthorized use continues, the Bureau shall install a full-flow meter and bill the property owner for the full costs of the meter as well as System Development Charges. These policies and procedures are further detailed in the annual water rate ordinance.

21.16.210 Billing and Collection of Sewer User Charges.

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

Chapter 24.10

**ADMINISTRATION AND
ENFORCEMENT**

Sections:

24.10.010	Title.
24.10.020	Purpose.
24.10.030	Scope.
24.10.040	Codes.
24.10.050	Organization.
24.10.060	Enforcement.
24.10.070	Application for Permits.
24.10.080	Board of Appeals.
24.10.085	Structural Engineering Advisory Committee.
24.10.090	Pre-application and Pre-construction Meetings.
24.10.095	Commercial and Industrial Minor Structural Labels.
24.10.100	Fees.

24.10.010 Title.

This Title shall be known as the “Building Regulations,” and may be so cited and pleaded and is referred to herein as “this Title.”

24.10.020 Purpose.

(Amended by Ordinance No. 163908, effective Feb. 27, 1991.) The purpose of this Title is to provide minimum performance standards to safeguard the health, safety, welfare, comfort, and security of the residents of this City who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, techniques, and practicable maximum energy conservation by regulating and controlling the design, construction, quality of materials, use, and occupancy, location and maintenance of all buildings, structures and land within this jurisdiction.

24.10.030 Scope.

(Amended by Ordinance Nos. 163237, 163908, 165678 and 176783, effective August 30, 2002.) The provisions of this Title shall apply to the construction, alteration, moving, demolition, repair, and use of any building, structure or land, and to any land clearing or grading within the City. Exceptions are work in the public right-of-way as approved by the City Engineer; publicly constructed sanitary and storm sewer systems and facilities approved by the BES Chief Engineer; and public utility towers and poles, mechanical equipment not specifically regulated in this Code.

TITLE 24

BUILDING REGULATIONS

24.10.040 Codes.

(Amended by Ordinance Nos. 158651, 162695, 163908, 164950, 166111, 166436, 169312, 169905, 172737, 174891, 177414, 177433, 178745, 179125, 181359, 182370, 184140 and 185545, effective August 22, 2012.)

- A.** Structural Specialty Code. The provisions of the State of Oregon Structural Specialty Code 2010 Edition, as published by the International Code Council and known as the International Building Code 2009 Edition and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, including Appendix L and the provisions of Section 903.2.8.1, are hereby adopted by reference. The Structural Specialty Code is on file in the Development Services Center of the City of Portland.
- B.** Compliance with recognized standards. Where requirements of this Title do not provide necessary regulation or are not fully detailed with regard to processes, methods, specifications, equipment testing, and maintenance, standards of design, performance, and installation, and other pertinent criteria, the applicable standards and recommendation of the National Fire Protection Association, as set forth in its National Fire Code, current Edition, Volumes 1 through 16 shall apply, a copy of which is on file in the City Auditor's Office. Said volumes and all subsequent editions are hereby incorporated in this Title by reference.
- C.** Application of other titles. Nothing in this Title is intended to permit the establishment or conversion of any structure or use of any land in any zone which is not in accordance with the applicable sections of Title 25 (Plumbing Regulations), Title 26 (Electrical Regulations), Title 27 (Heating and Ventilating Regulations), Title 33 (Planning and Zoning Regulations).
- D.** Residential code. The provisions of the State of Oregon, Residential Specialty Code, 2011 Edition, as published by the International Code Council, and known as the International Residential Code, 2009 Edition, and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, including the appendices and standards adopted by the State of Oregon, is hereby adopted by reference. The Residential Specialty Code is on file in the Development Services Center of the City of Portland.

24.10.050 Organization.

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

- A.** Bureau of Development Services. The Bureau of Development Services shall be under the jurisdiction of the Director designated by the appointing authority.

TITLE 25
PLUMBING REGULATIONS

Chapter 25.01

TITLE AND SCOPE

Sections:

- 25.01.010 Title.
- 25.01.020 Scope-Oregon State Plumbing Specialty Code.

25.01.010 Title.

This Title shall be known as the “Plumbing Regulations,” may be so cited and pleaded and will be referred to herein as “this Title.”

25.01.020 Scope - Oregon Plumbing Specialty Code.

(Amended by Ordinance Nos. 162694, 164949, 168183, 169905, 174891, 179125, 182370 and 185545, effective August 22, 2012.) This Title shall apply to all plumbing done within the City, except sewer facilities installed by the City Engineer through contract or by City work force in any public place or right-of-way for the disposal of sanitary or storm drainage and water supply facilities installed by the Water Engineer through contract or City work force in any public place or right-of-way for supplying the water service.

The provisions of the Uniform Plumbing Code, 2009 edition, including the appendix and installation standards, published by the International Association of Plumbing and Mechanical Officials, as amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, and known as the 2011 Edition of the Oregon Plumbing Specialty Code, are hereby adopted by reference. The Plumbing Specialty Code is on file in the Development Services Center of the City of Portland.

25.01.025 Specialty Solar Code.

(Repealed by Ordinance No. 168183, effective Nov. 1, 1994.)

25.01.030 Residential Code.

(Repealed by Ordinance No. 182370, effective November 26, 2008.)

TITLE 25
PLUMBING REGULATIONS

Chapter 25.02

DEFINITIONS

Sections:

25.02.020	Approved.
25.02.030	Building.
25.02.040	Building Wrecker.
25.02.050	Bureau of Development Services.
25.02.055	Director.
25.02.060	Journeyman Plumber.
25.02.070	Maintenance Person.
25.02.080	Plumbing Contractor.
25.02.090	Plumbing Inspector.
25.02.095	Rainwater Harvesting System.
25.02.100	Sewer Contractor.
25.02.110	Structure.

25.02.010 Administrative Authority.

(Repealed by Ordinance No. 178578, effective September 1, 2004.)

25.02.020 Approved.

(Amended by Ordinance No. 176955, effective October 9, 2002.) Approved means approved by the City of Portland, Bureau of Development Services, Plumbing Section.

25.02.030 Building.

Building is any structure used or intended for supporting or sheltering any use or occupancy.

25.02.040 Building Wrecker.

Building wrecker means any person, firm, or corporation registered by the State of Oregon, but not listed under this Title as a plumbing contractor, or sewer contractor, but who is deemed capable of sealing sewer openings inside of the property line.

25.02.050 Bureau of Development Services.

(Amended by Ordinance No. 176955, effective October 9, 2002.) Bureau of Development Services means the Bureau of Development Services of the City of Portland, which may be represented by any employee duly authorized to make inspection of plumbing installations.

25.02.055 Director.

(Added by Ordinance No. 178578, effective September 1, 2004.) Director shall mean the Director of the Bureau of Development Services or a duly authorized representative of the Director.

TITLE 26
ELECTRICAL REGULATIONS

Chapter 26.01

TITLE AND SCOPE

(Title replaced by Ordinance No. 171978,
effective March 1, 1998.)

Sections:

- 26.01.010 Title
- 26.01.020 Purpose
- 26.01.030 Code Adoption

26.01.010 Title.

This Title shall be known as Title 26, Electrical Regulations and will be referred to herein as “this Title.”

26.01.020 Purpose.

The purpose of this Title is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance of all electrical systems within the City of Portland’s area of regulatory responsibility.

26.01.030 Code Adoption.

(Amended by Ordinance Nos. 174891, 176956, 177414, 179125, 182370 and 185545, effective August 22, 2012.) The provisions of the State of Oregon Electrical Specialty Code, 2011 Edition, as published by the National Fire Protection Association and known as the National Electrical Code (NEC) 2011 Edition and amended by the Building Codes Division of the Oregon Department of Consumer and Business Services, including the appendices and Electrical Standards adopted by the State of Oregon, are hereby adopted by reference.

These codes and standards are on file in the Development Services Center of the City of Portland. This Title shall prevail except where specifically prohibited by the Oregon Revised Statutes and the Oregon Administrative Rules.

TITLE 26

ELECTRICAL REGULATIONS

Chapter 26.02

DEFINITIONS

Sections:

26.02.010	General
26.02.020	Approved
26.02.030	Bureau of Development Services
26.02.040	Director
26.02.050	Electrical Code
26.02.060	Electrical Inspection Supervisor
26.02.070	Emergency Electrical Work
26.02.080	Inspector
26.02.090	OAR
26.02.100	ORS
26.02.110	Owner
26.02.120	Supervising Electrician
26.02.130	Unanticipated Electrical Work

26.02.010 General.

For the purpose of this Title, certain terms, phrases, words, and their derivatives shall be construed as specified herein. Words used in the singular include the plural and the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Terms, words, phrases and their derivatives used, but not specifically defined in this Title, or if not herein defined, shall have the meanings commonly accepted in the community.

26.02.020 Approved.

(Amended by Ordinance No. 176955, effective October 9, 2002.) Approved means electrical installations, equipment, product or materials acceptable under ORS 479 to the City of Portland, Bureau of Development Services.

26.02.030 Bureau of Development Services.

(Amended by Ordinance No. 176955, effective October 9, 2002.) The Bureau shall mean the City of Portland Bureau of Development Services, hereinafter referred to as “the Bureau,” which may be represented by any duly authorized employee.

26.02.040 Director.

(Amended by Ordinance No. 176955, effective October 9, 2002.) Director shall mean the Director of the Bureau of Development Services or a duly authorized representative