

ORDINANCE NO. 186216

*Transfer responsibility for Noise Control Program from Bureau of Development Services to Office of Neighborhood Involvement (Ordinance; amend Code Sections 3.30.010, 3.96.060, 18.12.020, 18.14.020, 18.17.010 and 18.18.010)

The City of Portland Ordains:

Section 1. The City Council Finds:

1. The Portland Bureau of Development Services (BDS) has the authority pursuant to City Code Section 3.30.010 and 18.18.010 to administer and enforce Title 18 of the City Code (Noise Control).
2. The City budget adopted by the City Council on May 29, 2013, contained a directive regarding the transfer of the City's Noise Control Program, including all related resources, requirements and employees from BDS to the Office of Neighborhood Involvement (ONI), effective July 1, 2013 (see City of Portland, Oregon – FY 2013-14 Adopted Budget, Vol. I, p. 338).
3. Chapter 3.30 and several sections of Title 18 contain references to BDS as the administering and enforcement agency of the Noise Control Program. In order to accomplish the transfer of authority from BDS to ONI and make the Code consistent with the current City's budget and Council direction, Portland City Code Title 3 needs to be revised to delete administration and enforcement of the Program from BDS's responsibilities and add it to ONI's, and Title 18 needs to be revised to replace references to BDS with references to ONI.
4. The BDS Fee Schedule effective July 1, 2013, contains components relating to the Noise Control Program, including the Noise Variance Fee Schedule. As part of the transfer of the Noise Control Program from BDS to ONI, these components need to be revised to reflect ONI's new responsibilities.

NOW, THEREFORE, the Council Directs:

- a. Amend Portland City Code Subsection 3.30.010 A. as follows:

3.30.010 Duties of the Bureau of Development Services.

The Bureau of Development Services shall be responsible for:

- A. The administration and enforcement of:

1. ~~Noise Control, Title 18;~~

Re-number the remainder 2 through 11 to 1 through 10.

b. Add Portland City Code Subsection 3.96.060 L. as follows:

3.96.060 Responsibilities of the Office of Neighborhood Involvement.

L. Administer and enforce City Code Title 18, Noise Control.

c. Amend Portland City Code Subsection 18.12.020 A. 2. as follows:

18.12.020 Specific Prohibitions.

2. Animals located in a Authorized or Permitted Animal Facility. It shall be a violation for any animal located in a Specified Animal Facility, as defined in Portland City Code 13.05.005 G., or to any lawful livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. Enforcement of this Subsection shall be the responsibility of the ~~Bureau of Development Services~~Office of Neighborhood Involvement or another City entity designated by Council.

d. Amend Portland City Code Subsection 18.14.020 B. as follows:

18.14.020 Variances.

- B.** The application shall not be considered until the application fee is received. All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at the ~~Development Services Center~~Office of Neighborhood Involvement.

e. Amend Portland City Code Section 18.17.010 as follows:

18.17.010 Rulemaking.

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of this Title. The rules and regulations must be in conformance with the intent and purpose of this

Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures in this section.

B. Permanent rules.

1. Prior to the adoption of a permanent rule, the Director will:
 - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. ~~A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.~~
 - b. At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
 - c. The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
 - d. If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
2. Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

C. Interim rules.

1. An interim rule may be adopted by the Director without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
2. Interim rules will be effective for a period of not longer than 180 days.

3. Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement. Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.

D. All final and interim rules must be filed in the office of the Director. All final and interim rules will be available to the public at the ~~Development Services Center~~ Office of Neighborhood Involvement.

E. For the purposes of this Section, "Director" shall mean the Director of the ~~Bureau of Development Services~~ Office of Neighborhood Involvement, or any duly authorized representative of the Director.

f. Amend Portland City Code Section 18.18.010 as follows:

18.18.010 Authority for Enforcement.

This Title shall be enforced by the ~~Bureau of Development Services~~ Office of Neighborhood Involvement and by the Bureau of Police. Duly authorized agents of either of these bureaus shall have citation authority for purposes of enforcing this Title.

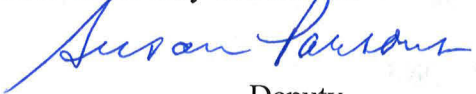
g. The current Bureau of Development Services Noise Variance Fee Schedule, adopted effective July 1, 2013 (PPD ENB-14.06) is revised to substitute the "Office of Neighborhood Involvement" for all current references to the "Bureau of Development Services", as set forth in the attached Exhibit A. This portion of the ordinance is a binding City policy.

Section 2. The Council declares that an emergency exists because the transfer of authority to administer and enforce the Noise Control Program from BDS to ONI was effective July 1, 2013, and the City Code needs to be updated to reflect such transfer; therefore, this ordinance shall be in full force and effect from and after its passage by Council.

Passed by the Council: SEP 04 2013

Commissioner Amanda Fritz
Prepared by: Nancy B. Thorington, BDS
Date Prepared: September 4, 2013

LaVonne Griffin-Valade
Auditor of the City of Portland

By 
Deputy

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Agenda No. **ORDINANCE NO. 186216**

Title

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<p>INTRODUCED BY Commissioner/Auditor: Commissioner Amanda Fritz</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz <i>T. Bijan</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Development Services Bureau Head: Paul L. Scarlett <i>P. Scarlett</i></p> <p>Prepared by: Leanne Torgerson Date Prepared: 8/23/13</p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances <i>JB</i></p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>Stephen Walters</i></p> <p>Council Meeting Date 9/4/13</p>	<p style="text-align: right;">AUG 30 2013</p> <p>CLERK USE: DATE FILED _____</p> <p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>Susan Parsons</i> Deputy</p> <p>ACTION TAKEN:</p>
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AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Novick	✓	
Hales	✓	