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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.

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.

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.

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

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

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

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 17.08

LOCAL IMPROVEMENT PROCEDURE

(Chapter replaced by Ordinance No. 177124,
effective January 10, 2003.)

Sections:

17.08.010 Definitions and Scopes of Duties.
17.08.020 City Council Control.
17.08.030 Charter Provisions Applicable.
17.08.040 Initiation of Local Improvement Proceedings.
17.08.050 Petition for a Local Improvement District.
17.08.060 Resolution of Intent.
17.08.070 Local Improvement District Formation and Remonstrances.
17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.
17.08.090 Abandonment of Local Improvement District.
17.08.100 Completion of Construction.
17.08.110 Total Cost of Local Improvement
17.08.120 Alternative Financing Methods.
17.08.130 Final Assessment and Objections.

17.08.010 Definitions and Scopes of Duties.

(Amended by Ordinance Nos. 182389 and 184957, effective November 25, 2011.)

A. The "Responsible Bureau" for a local improvement is as follows:

1. The Bureau of Transportation is the Responsible Bureau for street and other transportation improvements;

2. The Bureau of Environmental Services is the Responsible Bureau for sanitary sewer, stormwater management and other environmental improvements;

3. The Bureau of Water Works is the Responsible Bureau for water improvements; and

4. City Council shall designate the Responsible Bureau for a local improvement that is not addressed by this section.

B. "Local Improvement District Administrator" means the person designated by the Director of the Bureau of Transportation to administer the City's local improvement district program.

C. The Responsible Engineer as identified in Section 17.04.037 is responsible for:

1. Preparing a preliminary engineer's estimate;

2. Preparing plans and specifications;

3. Entering into a contract for improvement construction and/or engineering;

4. Handling completion of construction and acceptance of work;

5. Preparing a final engineer's estimate; and

6. Any other work related to engineering or construction.

D. The Local Improvement District Administrator is responsible for:

1. Preparing a petition for a local improvement district and determining the validity of a petition for a local improvement district as appropriate;

2. Recommending an assessment methodology or assessment methodologies for a local improvement district to City Council;

3. Analyzing financial feasibility of a local improvement district prior to formation;

4. Preparing and filing a resolution of intent for formation of a local improvement district;

5. Publishing and posting notices for the formation hearing of a local improvement district;

6. Preparing and filing a formation ordinance for a local improvement district;

7. Responding to remonstrances against formation of a local improvement district;

8. Presenting significant changes to scope or cost of improvements to City Council after formation of a local improvement district;

9. Recommending abandonment of a local improvement district;

10. Determining the total cost of the local improvement;

11. Publishing and posting notice of final assessment for a local improvement district;

12. Preparing and filing the final assessment ordinance for a local improvement district;

13. Responding to objections against final assessment of a local improvement district; and

14. Any other work related to processing or completing local improvement districts.

E. The City Auditor shall be responsible for:

1. Mailing notices for the formation hearing of a local improvement district at the direction of the Local Improvement District Administrator;

2. Receiving written remonstrances against the formation of a local improvement district, and forwarding such remonstrances to the Local Improvement District Administrator for a response;

3. Maintaining records of preliminary estimates of assessments;

4. Mailing notices for the final assessment hearing for a local improvement district at the direction of the Local Improvement District Administrator;

5. Receiving written objections to the final assessment for a local improvement district, and forwarding such objections to the Local Improvement District Administrator for a response;

6. Entering final assessments for a local improvement district into the docket of City Liens upon passage of an assessment ordinance for a local improvement district;

7. Mailing of notices of final assessment to property owners after passage of the assessment ordinance and entry into the docket of City Liens;

8. Determining the individual financial capacities of property owners, and whether to offer bonding, if requested; and

9. Obtaining interim financing to pay for local improvement costs prior to bonding.

17.08.020 City Council Control.

Whenever the City Council deems it expedient, it may order an improvement; when the City Council determines that such improvement will afford a special benefit to property within a particular district, the City Council shall classify it as a local improvement, and provide for payment of all or a portion of the cost thereof by imposition and collection of local assessments on the property benefited.

17.08.030 Charter Provisions Applicable.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Charter provisions applicable to local improvements shall be followed by the City except where Charter provisions are contrary to state statute or the Oregon Constitution. In case of such conflict, legally applicable City Code shall apply.

17.08.040 Initiation of Local Improvement Proceedings.

A. City Council may, at its discretion, initiate a local improvement proceeding by adopting a resolution of intent to undertake a capital construction project, or part thereof, based on:

1. A valid petition of support per the criteria in Section 17.08.050, signed by property owners and filed with the Local Improvement District Administrator;

2. A recommendation from the Responsible Bureau; and/or

3. Its own initiative.

B. Where a sewer local improvement is ordered pursuant to an Environmental Quality Commission Order and a sewer plan has been developed and adopted by the City Council, preparation of the construction plans and specifications for that improvement may begin without action by the City Council.

17.08.050 Petition for a Local Improvement District .

A. A petition of support may be prepared by the Local Improvement District Administrator or by owners of property that may be specially benefited by the proposed improvement.

B. The petition shall include:

1. The name or designation of the improvement;

2. A map or clear description of the location of the improvement;

3. The general character and scope of the improvement; and

4. A proposed assessment methodology.

C. The Local Improvement District Administrator shall review a petition for the proposed local improvement district to determine if the petition is valid. A petition will be considered valid only when property owned by petition signers added to property covered by waivers of remonstrance and property owned by the City represents more than 50 percent of the property in the proposed district as measured by the proposed assessment methodology. Property owned by the City, including property owned through the Portland Development Commission, shall be counted in support of formation of a local improvement district.

D. The Local Improvement District Administrator will not consider a petition valid if a petition for a substantially similar local improvement district has been filed in the previous 6 months and City Council resolved not to proceed with the substantially similar district.

E. In reviewing the petition, the Local Improvement District Administrator shall also identify delinquencies in taxes or City liens in the proposed district and determine the bonding capacities of the properties within the proposed local improvement district. The Local Improvement District Administrator shall analyze project financial feasibility by determining whether the sums assessed together with all unpaid sums then outstanding as assessments against the properties would exceed one-half the real market valuation of the properties as shown on the latest county tax rolls.

F. A petition of support will not be disqualified as a result of a subsequent transfer in property ownership. However, the new property owner has a right to remonstrate against the proposed improvement as provided in Chapter 17.08.

17.08.060 Resolution of Intent.

A. The Local Improvement District Administrator shall prepare and file a resolution of intent for the City Council's consideration if after the review specified in Section 17.08.050 the Local Improvement District Administrator determines a petition is valid; if a Responsible Bureau recommends initiation of a local improvement district; and/or if a member of City Council requests initiation of a local improvement district.

B. The resolution of intent shall include the following: the name or designation of the improvement; the location of the improvement; a map or clear description of the district boundary; the general character and scope of the improvement; a preliminary estimate of the total cost of the local improvement; the proposed assessment methodology; the proportion of funding to be borne by property owners and other sources, if applicable; the designated Responsible Bureau if the project scope is not addressed by Section 17.08.010; a statement of whether the City Council intends to construct the improvement; and direction to the Local Improvement District Administrator to do one of the following:

1. Initiate formation proceedings on the proposed local improvement district; or

2. Suspend proceedings on the proposed local improvement district; or

3. Terminate the process for forming the proposed local improvement district.

C. If City Council passes a resolution of intent to construct the improvements, City Council shall direct the Local Improvement District Administrator to initiate local improvement district formation proceedings as set forth in Section 17.08.070.

D. The City Council may direct that the engineering and construction work shall be done in whole or in part by the City, by a contract, by direct employment of labor, by another governmental agency, or by any combination thereof.

E. If a petition is not valid, but the City Council determines that an improvement should be constructed, it may initiate the proceedings by adopting a resolution of intent to construct the improvement.

F. If the City Council determines that some other construction, such as installation of water lines, sewer lines prior to a street improvement, installation of fire hydrants, utility lines or conduits, conduits for underground service for street lights, or any other underground construction should precede the particular proposed improvement, then the City Council may suspend the proceedings for the proposed improvement until such construction has been started or completed.

G. If the City Council passes a resolution to terminate the process for forming the local improvement district, no further action shall be taken by the Local Improvement District Administrator on the district for a period of 6 months, other than actions to close the project.

17.08.070 Local Improvement District Formation and Remonstrances.

A. Notice of Public Hearing

1. Publication Notice: Except as otherwise provided by Charter for changes to street grades, the Local Improvement District Administrator shall publish 2 notices of the City's intent to form a local improvement district by publication in a paper of general circulation in the City at least 14 calendar days before the formation hearing. The notices shall include the following information:

a. The time, date and place of the formation hearing before City Council;

b. The name of the proposed district;

c. A description of the type and scope of improvements to be made;

d. A map or description of the area proposed for inclusion in the district for which a legal description is not required;

e. A preliminary estimate of the total cost of the local improvement based on the preliminary engineer's estimate;

f. The methodology or methodologies by which properties will be assessed;

g. A statement that the proposal could be modified as a result of the testimony at the formation hearing and that property owners should attend the hearing to have an opportunity to testify on proposed changes;

h. A statement mentioning the right to remonstrate, who may remonstrate, how remonstrances can be made, the deadline for filing remonstrances; and where remonstrances must be filed; and

i. Contact information for the Local Improvement District Administrator.

2. Posting Notice: At least 14 calendar days before the local improvement district formation hearing, the Local Improvement District Administrator shall cause to be posted conspicuously within the proposed assessment district, at least two notices headed "Notice of Proposed Improvement" in letters not less than 1 inch in height, and the notices shall contain in legible characters the information required in Section 17.08.070.A.1. The

Local Improvement District Administrator shall place an affidavit of the posting of such notices within the project file, stating therein the date when and places where the notices have been posted.

3. Mail Notice: At least 21 calendar days before the local improvement district formation hearing on the proposed improvement, the City Auditor, at the direction of the Local Improvement District Administrator, shall mail to the owner of each property within the proposed assessment district, a notice containing the following:

a. The information required in Section 17.08.070.A.1;

b. A description of the property; and

c. A preliminary estimate of the assessment for the property.

4. A record shall be kept of the mailing, posting and publication of any notice required by this Ordinance. Any mistake, error, omission or failure with respect to publication, posting or mailing notice shall not affect City Council's jurisdiction to proceed or otherwise invalidate the local improvement proceedings when notice is provided by at least one of the methods in this Section.

B. Remonstrances

1. If property owners choose to remonstrate against the proposed improvement such remonstrances must be received by the City Auditor by 5:00 PM seven (7) calendar days prior to the local improvement district formation hearing. A remonstrance must be in writing and must be delivered in person or by first class U.S. mail to the City Auditor. The City Auditor is not responsible for remonstrances sent via facsimile or via e-mail. The remonstrance shall state the reasons for the objection. Any person acting as agent or Attorney with power to act in signing the remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner or owners of property. The City Auditor will forward the remonstrance to the Local Improvement District Administrator for a response. A written remonstrance may be withdrawn at any time before the close of the City Council hearing on the formation of the District.

2. Owners of property covered by waivers of remonstrance may submit an objection; however such an objection shall not be considered for purposes of determining Council jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement.

3. The number of remonstrances that will defeat formation of a proposed local improvement district shall be as provided by Chapter 9 of the City Charter for the particular type of improvement.

C. Formation Ordinance

1. The local improvement district formation ordinance shall contain at least the following findings:

a. Name of the proposed local improvement district;

b. A general description of the project scope as may also be shown on a typical section;

c. A description of the proposed local improvement district with a reference to specific district boundaries, or a map showing the area proposed for inclusion in the local improvement district;

d. A preliminary estimate of the total cost of the local improvement, including design, construction, engineering, project management and financing;

e. The assessment methodology or methodologies by which benefit within the local improvement district will be assigned;

f. A preliminary estimate of assessments for each property owner within the local improvement district based on the proposed assessment methodology or methodologies;

g. A statement as to the financial feasibility of the district, based on the preliminary estimate of assessments and outstanding past assessments and taxes; and

h. An exhibit containing findings addressing each remonstrance received, and number of remonstrances received.

2. The local improvement district formation ordinance shall contain at a minimum directives that:

a. Create the district;

b. Include benefited properties in the district as shown on an attached exhibit;

c. State the property owners' share of the costs that the benefited properties will be assessed, and any other entities' shares, as applicable;

d. State the assessment formula or assessment formulas;

e. Direct the Responsible Engineer to arrange for the preparation of plans and specifications;

f. Direct the Responsible Engineer to arrange for construction of the improvement;

g. Direct the City Auditor to obtain interim financing to pay for local improvement costs prior to bonding; and

h. Sustain or overrule any remonstrances received.

D. Local Improvement District Formation Hearing

1. The City Council shall hold a public hearing on the proposed improvement. As provided by Section 17.08.070 A.3, the hearing shall be held at least 21 calendar days after the date notice was deposited in the mail. The City Council may continue or discontinue the proceedings; may direct a modification of its resolution of intent; or may direct formation of the district and override any remonstrances, provided the City Council retains jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement. The City Council may direct a modification to the location or scope of the improvement, and/or to the assessment district which it deems will be benefited by the improvement; or make such other modifications in the proceedings as it finds reasonable.

2. Modification of Scope of Improvements: If the City Council significantly modifies the scope of the improvement within the adopted formation ordinance so that an assessment is likely to be significantly increased upon one or more properties, or if the City Council enlarges the assessment district within the adopted formation ordinance, then a new preliminary estimate of assessments will be made and new notices shall be sent to the property owners within the proposed district, and another hearing shall be held. The notice shall advise property owners who still wish to remonstrate that their remonstrance must be resubmitted. However, no new publication or posting shall be required. In the event of modification that meets the objection of any remonstrance, such remonstrance shall not be counted as such unless renewed following such modification.

3. Decision to Form District: Upon completion of the hearing process, the City Council may approve or decline formation of a district by ordinance. As provided in Section 17.08.070 C.1, a decision to approve formation of a district shall be supported by findings supporting a conclusion of special benefit and addressing the remonstrances, and shall direct the Local Improvement District Administrator to arrange for construction of the local improvement.

4. If the City Council approves formation of the local improvement district, the Responsible Engineer shall arrange for the preparation of plans and specifications. Upon completion, approved plans will be available for inspection at the Responsible Bureau for at least the minimum time period specified in its Records Retention and Disposition Schedule. The local improvement may be constructed and/or engineered in whole or in part by the City or by another government agency, or the City may seek bids for any portion of the local improvement.

5. The City Council shall have final determination of the kind and character of the local improvement, its location and extent, materials to be used, and all matters contained in the plans and specifications.

6. The City Council shall also have final determination of the assessment formula and boundaries of the district that is to be assessed for the costs of the improvement. The possibility or likelihood that some property contained in the property description of the proposed assessment district may not be benefited by the proposed improvement shall not invalidate the district description.

7. Upon City Council's passage of an ordinance forming a local improvement district, the assessment formula may not be changed notwithstanding concurrence among the property owner(s), nor can the assessment obligation be transferred to a property not included in the local improvement district. No release of obligation shall be made by the City Auditor until after final assessment is made.

17.08.080 Changes to Scope or Cost of Improvements and Notice to Proceed.
(Amended by Ordinance No. 182760, effective June 5, 2009.)

A. After formation of a local improvement district, City Council shall hold a public hearing to consider significant and material changes to the proposed scope or to the estimate of the total cost of the local improvement that may arise during the course of final engineering.

B. For such a hearing, notice shall be in the manner provided by Section 17.08.070. In addition to meeting the provisions of Section 17.08.070, the notice shall also state the nature of the proposed modifications to the scope of improvements or to the preliminary estimate of the total cost of the local improvement previously approved at the Local Improvement District formation hearing. Property owners shall have the opportunity to remonstrate against the significant changes in the manner provided by Section 17.08.070. If the improvement district was initiated by petition, no new petition will be required.

C. The Responsible Engineer may issue a Notice to Proceed to begin construction provided that:

1. There are no significant changes to the scope of the local improvements; or

2. There are no significant changes to the preliminary estimate of assessments for the benefiting properties in the local improvement district; or

3. The City Council has approved significant changes to scope and/or cost of the improvements as provided in this section.

Construction of the local improvement shall be in substantial accordance with the plans and specifications adopted by the Responsible Engineer.

17.08.090 Abandonment of Local Improvement District.

The City Council shall have full power and authority to abandon and rescind proceedings for local improvements at any time prior to the final completion of the improvements.

17.08.100 Completion of Construction.

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

A. After the work financed by the local improvement district has been completed satisfactorily, the Responsible Engineer shall prepare a certificate of completion. The Responsible Engineer shall also prepare a final engineer's estimate showing the costs of all engineering and construction work performed. The certificate of completion shall be deemed acceptance by the City of the local improvement work.

B. Authorization for final payment will be made as provided by Chapter 5.33 of City Code.

C. The Local Improvement District Administrator will include the final engineer's estimate and a copy of the certificate of completion with the filing of the final assessment ordinance as set forth in Section 17.08.130.

D. Notice of completion of the work need not be provided except as may be required elsewhere in City Code.

E. If a local improvement is substantially complete except for contract closeout, or if a scope of improvement included in the construction contract but not included in the local improvement is incomplete, the Responsible Engineer at the discretion of the Responsible Bureau may file a written report attesting that the local improvements are complete in lieu of a certificate of completion. The provisions set forth in Section 17.08.100.A apply, except that the written report substitutes for the certificate of completion. Any further project or financing costs incurred subsequent to final assessment will be the responsibility of the Responsible Bureau, not of the property owners.

17.08.110 Total Cost of Local Improvement.

A. After the work financed by a local improvement district has been accepted as complete, the Local Improvement District Administrator shall determine the total cost of the local improvement, including costs identified in the final engineer's estimate and any pending costs.

B. The total cost of the local improvement that may be assessed against the properties specially benefited by the improvement shall include, but not be limited to the following:

1. Direct or indirect costs incurred in order to undertake the capital construction project such as the costs of labor, materials, supplies, equipment, permits, survey, engineering, administration, supervision, inspection, insurance, advertising and notification, administration, accounting, depreciation, amortization, operation, maintenance, repair, replacement, contracts, debt service and assessment;

2. Financing costs, including interest charges; the costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings; and

3. Attorneys' fees and any other actual expense as allowed by state law.

C. Engineering and project management performed by the City in connection with local improvements shall be charged at the rate of 100 percent of the direct cost of services performed computed in accordance with the provisions of Section

5.48.030. The Responsible Engineer shall prepare a final engineer's estimate of the engineering and construction costs. A final estimate of the total project costs, including costs reflected in the final engineer's estimate, shall be prepared by the Local Improvement District Administrator.

D. The City Auditor shall maintain a fee schedule that shall be used for determining the charge to be made by the City Auditor for City Auditor's Office administrative services and general City administrative services in connection with local improvements. These charges will include a Superintendency fee; a recording fee which shall be fixed regardless of the amount of the assessment; and a monthly billing fee if the property owner does not pay the full assessment at the time it is levied.

17.08.120 Alternative Financing Methods.

Nothing contained in this Chapter shall preclude the City Council from using any other available means of financing portions of local improvements, including but not limited to city funds, federal or state grants, user charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the City Council may make assessments to pay any remaining part of the total costs of the local improvement.

17.08.130 Final Assessment and Objections.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.)

A. Apportionment of Proposed Final Assessments

1. Whenever any local improvement, any part of the cost of which is to be assessed upon the property specially benefited thereby, is completed in whole, or in such part that the cost of the whole can be determined, the Local Improvement District Administrator shall file the final estimate of the total cost of the local improvement and prepare a proposed final assessment according to the assessment formula approved by City Council upon the properties in the district, including upon any land owned by the City.

2. If the City Council has determined that a portion of the total cost of the local improvement is to be paid from public funds, other than the benefit assessment to be imposed upon land owned by the City and lying within the assessment district fixed by the City Council, the Local Improvement District Administrator shall deduct from the total cost of the local improvement such allocation of costs to public funds provided by the City Council and shall apportion the remainder of such total cost on the properties within the assessment district.

3. When the Local Improvement District Administrator has calculated the assessment for each property, the Local Improvement District Administrator shall file the proposed final assessment roll with the City Council through the Commissioner-in-Charge of the Responsible Bureau.

B. Notice of Proposed Final Assessments

1. At least 21 calendar days before the public hearing on the proposed final assessment, the City Auditor at the direction of the Local Improvement District Administrator shall provide notice to the owner of each property or to the owner's agent as shown in the County tax record either by mail or by personal delivery. The notice shall state:

a. The property description;

b. The amount of the proposed final assessment against the property;

c. A statement that this amount could be modified as a result of objections filed by other property owners in the district unless the cost to property owners is fixed;

d. The date, time and place of the final assessment hearing;

e. The deadline and manner for filing objections to the proposed final assessment; and

f. Contact information for the Local Improvement District Administrator.

2. The Local Improvement District Administrator shall publish 2 notices of the proposed final assessment in a newspaper of general circulation in the City at least 14 calendar days prior to the final assessment hearing.

C. Final Assessment Hearing and Objections

1. Any owner of property proposed to be assessed a share of the cost of a local improvement may file an objection to the proposed final assessment in writing with the City Auditor. The objection must be received by the City Auditor no later than 5:00 PM seven (7) calendar days prior to the hearing by City Council on the proposed final assessment. The City Auditor will forward the objection to the Local Improvement District Administrator for a response. The objection shall be filed in the same manner as set forth in Section 17.08.070.B and shall state the reasons for the objection. However, objections received to final assessment shall not

affect Council jurisdiction over final assessment proceedings.

2. The City Council shall hold a hearing on any objections on the date set forth in the notice, and at that time shall consider objections made by the owners of property at the hearing. The hearing may be continued as the City Council may find appropriate.

3. At the hearing, the City Council at its discretion shall determine and approve the amount to be assessed upon each property within the assessment district, which amount does not exceed the special benefits accruing to such property from the improvement and the sum of which amount and other amounts assessed against properties within the assessment district do not exceed the total cost of the local improvement. The amount of each assessment as determined by City Council shall be based on the City Council's finding of special benefit to the property.

D. Final Assessment Ordinance

1. The City Council shall pass an assessing ordinance that shall set forth the assessments against the respective properties within the assessment district.

2. The ordinance shall:

a. Include an exhibit containing findings addressing each objection received, and number of objections received

b. State the total cost and assessment formula used

c. Include a statement that each property is specifically benefited in the amount shown in the assessment roll;

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

e. Contain a directive to sustain or overrule the objections.

3. Upon passage of the assessing ordinance, the City Auditor shall enter the assessments in the docket of City liens and follow the assessment procedure set forth in Chapter 17.12. As provided by City Charter, the

assessment ordinance shall take effect immediately upon passage or on any date fewer than 30 days after passage that is specified in the final assessment ordinance.

4. Claimed mistakes in the calculation of assessments shall be brought to the attention of the Local Improvement District Administrator, who shall determine whether there has been a mistake. If the Local Improvement District Administrator finds that there has been a mistake, he or she shall recommend to the City Council an amendment to the assessment ordinance to correct the error. On enactment of an amendment, the City Auditor shall cause the necessary correction to be made in the City lien docket. Such correction shall not change assessments against any other property within the district.

E. Formation of a new local improvement district: In the event a court of law holds that the formation of a local improvement district was invalid or improper procedures were used, property owners may be assessed after the new district is formed if the properties are again included.

Chapter 17.12

ASSESSMENTS

(New Chapter substituted by Ordinance No. 163420, effective Sept. 29, 1990.)

Sections:

17.12.010 Lien Docket and General Assessment Procedure.
17.12.060 Assessing Ordinance.
17.12.070 Notice of Assessment.
17.12.080 Payment of City's Share.
17.12.100 Surplus.
17.12.120 Correction of Mistake in Assessment - Refund or Overpayment.
17.12.130 Segregation of Assessments
17.12.140 Bonding.
17.12.150 Rebonding.
17.12.170 Collection.

17.12.010 Lien Docket and General Assessment Procedure.

(Replaced by Ordinance No. 177124, effective January 10, 2003.)

A. The City will maintain a lien docket and general assessment procedure as set forth in the Chapter for the assessment of:

1. Local improvement district assessments.

2. System development charge assessments.

3. Sidewalk maintenance and repair assessments.

4. Enforcement of City Code; and

5. Other assessments prescribed by City Code.

B. In addition to the general assessment procedure set forth in this Chapter, specific assessment procedures are set forth as follows:

1. Local improvement district assessment procedures as set forth in Chapter 17.08;

2. System development charge assessment procedures are set forth in

Chapters 17.13, 17.14 and 17.15; and

3. Sidewalk maintenance and repair assessment procedures are set forth in Chapter 17.28.

17.12.020 Allowance for Engineering and Administration.
(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.030 Estimate of Cost - Apportionment of Assessments.
(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.040 Notices of Proposed Assessments.
(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.050 Remonstrances and Hearings.
(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.060 Assessing Ordinance.
The City Council may pass an assessing ordinance, effective immediately upon passage as prescribed in the City Charter, which shall set forth the assessments against the respective properties within the assessment district. Upon such passage the City Auditor shall enter the assessments in the docket of City liens.

17.12.070 Notice of Assessment.
After an assessment has been entered in the lien docket, the Auditor shall send a bill for the assessment by mail to each person whose property is assessed or to the owner's agent as shown in the County tax record.

17.12.080 Payment of City's Share.
The City Council may provide for the payment into the particular local improvement assessment fund of any share allocated by the Council to be paid from public funds, and also any assessments imposed by it against City owned property.

17.12.090 Deficit Assessment.
(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.100 Surplus.
If the total cost of an improvement is found to be less than the total sum previously assessed therefor, the surplus shall be apportioned and paid in accordance with Charter provisions.

17.12.110 Reassessment.

(Repealed by Ordinance No. 177124, effective January 10, 2003.)

17.12.120 Correction of Mistake in Assessment - Refund or Overpayment.

(Amended by Ordinance No. 173369, effective May 12, 1999.) A mistake in assessment or entry thereof in the lien docket may be corrected as prescribed by the Charter. In case of overpayment because of such mistake or otherwise, the person who paid such excess or his or her legal representative, heirs or assigns, is entitled to repayment of the same by check drawn upon the fund receiving such overpayment.

17.12.125 Mid-County Sewer Financial Assistance Program.

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

17.12.130 Segregation of Assessments.

(Amended by Ordinance Nos. 177124 and 182760, effective June 5, 2009.)

A. A lien against the real property in favor of the City may be segregated on the application of the owner(s), subject to the provisions of this section and any rules adopted by the City Auditor.

B. Applications shall be made to the City Auditor and shall include:

1. A legal description of each tract to be segregated;

2. Documentation demonstrating that each tract to be segregated is a lot or parcel created by a subdivision, partition or other division of the original tract of land in accordance with ORS 92.010 to 92.190, and is consistent with all applicable comprehensive plans;

3. The names of the owners of each tract, and the name of each person who will own each parcel should the segregation be approved; and

4. A full legal description that will be assigned by the County Assessor for each lot or parcel that is created as a result of the segregation.

C. No segregation shall be made unless each part of the original tract of land after the segregation has a true cash value, as determined from the certificate of the county assessor, of 200% or more of the amount of the lien as to each segregated tract concerned.

D. The City Auditor shall compute a segregation of the lien against the real property on the same basis as it was originally computed and apportioned and shall record the segregation in the lien docket. If the original tract has been divided by filing of a condominium plat, the applicant for segregation may propose an alternative,

equitable basis for computing segregation of the lien. The alternative proposed segregation shall be subject to the Council's approval by ordinance.

E. No assessment shall be segregated until all outstanding delinquent City liens on the property are brought current.

F. The City Auditor shall charge a fee for the segregation of assessments. The fee will be based in part on the number of lots or parcels that result from the segregation. The segregation fee may be amended from time to time and shall be stated in the Fees & Charges schedule maintained in the Assessments Division of the City Auditor's office.

17.12.140 Bonding.

(Amended by Ordinance Nos. 173369 and 177124, effective January 10, 2003.)

A. Within 30 days of the entry in the lien docket a property owner may apply to pay the assessment, deficit assessment or re-assessment or the amount remaining unpaid by installments as stated in the signed installment payment contract. The contract shall be in accordance with the terms and provisions of ORS 223.215. The contract shall be received by the Auditor subject to the limitations prescribed in this Section. The City may accept contracts after the 30-day period stated in this Section under procedures established by the City Auditor.

B. If the sum assessed together with all unpaid sums then outstanding as assessments against the property exceeds one-half the real market valuation of the property as shown on the latest county tax rolls, then the Auditor shall reject the application unless the excess is paid in cash with the application and the application is made for the remainder only.

C. If the installment payment contract has been received and is in force, the Treasurer may accept prepayments of any installments without penalty for the prepayment. Whenever an installment is paid, accrued interest to the due date of the installment on the unpaid assessment balance, plus interest on the past due installment if any, shall be paid with the installment.

D. In addition to the procedures provided for in Subsections A. through C above, the procedures for bonding improvement assessments authorized by the Bancroft Bonding Act (ORS 223.205, 223.930) may be followed for improvement assessments when the Council so directs in the ordinance making the assessment.

E. For purposes of this Section the term "property owner" means the owner of the Title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of the County Assessor.

F. Interest rates for bonded assessments shall be set using an adjusted rate mechanism. The City Council shall set an interim rate by ordinance, which shall be applied to the unpaid balance until improvement bonds are sold to finance the bonded assessments. Upon sale of bonds, the Auditor shall adjust the interest rate to the rate received by the City on the bond issue (expressed as true interest cost) plus a fee to cover insurance and discount on the bonds. All subsequent payments will be made at the new adjusted rate. Property owners who sign an installment contract for systems development charges shall receive the adjusted rate.

G. Bond financing fees shall be charged to each installment contract to defray the costs of financing per a fee schedule on file with the City Auditor. The fee schedule will include a loan creation fee as well as a bond financing fee. Bond financing fees are in addition to costs set forth in Chapter 17.08

H. The City may charge a bond reserve fee on each installment payment contract to facilitate the sale of the improvement bonds. Proceeds from the bond reserve fee shall be dedicated to a reserve account and used as security for the improvement bonds that the City sells to finance the installment payment contract. A separate bond reserve account shall be created for each bond sale as required by the terms of the sale. This fee shall be in addition to the fees set forth in Chapter 17.08 and in Section 17.12.140 G.

I. The City Auditor shall charge a billing and service charge which shall be added to each statement and shall be in addition to principal, interest, penalties, costs and other fees. This fee shall be per a schedule on file with the City Auditor. This fee shall be in addition to the fees set forth in this Chapter 17.08, Section 17.12.140 G. and Section 17.12.140 H.

17.12.150 Rebonding.

A. If the Council specifically approves the same, a property owner who has bonded an assessment a portion of which remains unpaid, or a property owner whose assessment on such property has been subdivided as provided in the Charter, may apply for a rebonding if all taxes then due have been paid upon the property, no outstanding liens have been filed against the property, and if all the conditions applicable to initial bonding are met at the time of rebonding application. The rebonding application may include all unpaid assessment amounts remaining due and unpaid. All provisions relating to rebonding contained in the statutes of the State shall be applicable.

B. As used in this Section the term "property owner" shall mean the owner of the Title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of the County Assessor.

17.12.160 Monthly Payments on Assessments.

(Repealed by Ordinance No. 161797, effective May 12, 1989.)

17.12.170 Collection.

After 30 days from the date of entry in the lien docket of a sum assessed, whether by initial assessment, deficit assessment or reassessment, the amount of the delinquency together with interest and any costs may be collected as provided in the City Charter.

17.12.180 Redemption.

(Repealed by Ordinance No. 161797, effective May 12, 1989.)

17.12.190 Applicability of Charter Provisions.

(Repealed by Ordinance No. 161797, effective May 12, 1989.)

17.12.200 Alternate Procedures.

(Repealed by Ordinance No. 161797, effective May 12, 1989.)

Chapter 17.13

PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGE

(New Chapter added by Ordinance No. 172614, effective October 1, 1998.)

Sections:

17.13.010 Scope and Purposes
17.13.020 Definitions
17.13.030 Rules of Construction
17.13.040 Application
17.13.050 Application Requirements
17.13.060 Partial and Full Exemptions
17.13.070 SDC Credits and SDC Reimbursements
17.13.080 Alternative Calculation of SDC Rate, Credit or Exemption
17.13.090 Payment
17.13.100 Refunds
17.13.110 Dedicated Account and Appropriate Use of Account
17.13.120 Challenges and Appeals
17.13.130 City Review of SDC
17.13.140 Time Limit on Expenditure of SDCs
17.13.150 Implementing Regulations
17.13.160 Amendment of Parks and Recreation SDC-CIP List
17.13.170 Severability

17.13.010 Scope and Purposes.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. New development within the City of Portland contributes to the need for capacity increases for parks and recreation facilities and, therefore, new development should contribute to the funding for such capacity increasing improvements. This SDC will fund a portion of the needed capacity increases for urban, neighborhood, and community parks, trails, and habitat facilities as identified in the City of Portland Parks and Recreation SDC Capital Improvement Plan (SDC-CIP).

B. ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity increasing capital improvements to new development.

C. The SDC is incurred upon the application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. The SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development's receipt of parks and recreation services based upon the nature of that development.

D. The SDC imposed by this Chapter is not tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer, or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning or Section 11g, Article XI of the Oregon Constitution.

E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the provision of capacity increasing improvements for parks and recreation facilities as contemplated in *Parks 2020 Vision, July 2001; Recreational Trail Strategy, June 2006; Parks Natural Area Acquisition Strategy, November 2006;* and, more specifically, the list of projects, identified in the Parks and Recreation SDC-CIP, to be funded with money collected under this Chapter and incorporated as an Appendix to the most recently adopted Parks SDC Methodology. The Parks and Recreation SDC-CIP is not to be confused with the City of Portland Parks and Recreation Capital Improvement Program.

F. This Chapter is intended only to be a financing mechanism for a portion of the capacity increases needed for parks and recreation facilities associated with new development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.

G. The City hereby adopts the report entitled "Park System Development Charges Methodology Update Report" (dated March 5, 2008), and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth, and the rates for the parks and recreation SDC to finance these capital improvements. This report is hereinafter referred to as "SDC Methodology Report" and is attached to Ordinance No. 181669 passed by Council on March 12, 2008. The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.020 Definitions.

(Amended by Ordinance Nos. 173386, 173565, 174617, 176511 and 181669, effective January 1, 2009.)

A. "Accessory Dwelling Unit" means a second dwelling unit created on a single lot with a single-family or a manufactured housing dwelling unit. The second unit is created auxiliary to, and is always smaller than the single family or manufactured housing unit.

B. "Administrator" means that person, or designee, appointed by the City Council to manage and implement this Parks and Recreation SDC program.

C. "Alternative System Development Charge" means an SDC established pursuant to Section 17.13.080 of this Chapter.

D. "Applicant" means the person who applies for a building permit.

E. "Application" means the Parks SDC Information Form together with other required forms and documents submitted at the time of application for a building permit.

F. "Building Official" means that person, or designee, certified by the State and designated as such to administer the State Building Codes for the City.

G. "Building Permit" means that permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code Section 301 or as amended, and the State of Oregon One and Two Family Dwelling Code Section R-109 or as amended. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the City Building Official, relating to the placement of manufactured homes in the City.

H. "Central City" means the area identified in the SDC Methodology Report as the Central City Service Area, and whose boundaries are included on the map in the SDC Methodology Report. This area is also referred to as the Central City sub-area.

I. "City" means the City of Portland, Oregon.

J. "Comprehensive Plan" means the City's generalized, coordinated land use map and policy statement that interrelated all functional and natural systems and activities relating to the use of lands, including but not limited to sewer, water and transportation systems, educational and recreation facilities and natural resources and air and water quality management programs.

K. "Condition of Development Approval" is any requirement imposed on an Applicant by a City land use or limited land use decision, site plan approval or Building Permit either by operation of law, including but not limited to the City Code or Rule or regulation adopted thereunder, or a condition of approval.

L. "Cost Index" related to construction costs means the Seattle Area Engineering News Record (ENR) Construction Cost Index and related to land acquisition costs means the change in average market value of residential and commercial land in the City, according to the records of the Multnomah County Tax Assessor.

M. "Credit" means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.

N. "Dependent Care Facility" means a facility in which the resident cannot perform any part of activities of daily living; it must be done entirely by someone else.

O. "Development" means a building or other land construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of parks and recreation capital improvements or which may contribute to the need for additional or enlarged parks and recreation capital facilities.

P. "Director" means the Director of the Bureau of Parks and Recreation for the City of Portland.

Q. "Duplex" means two attached single-family dwelling units on a single lot.

R. "Dwelling Unit" means a building or a portion of a building consisting of one or more rooms which include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.

S. "Employee" means any person who received remuneration for services, and whose services are directed and controlled either by the employee (self-employed) or by another person or organization.

T. "Manufactured Housing" means a Dwelling Unit constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal Manufactured Housing construction and safety standards and regulations in effect at the time of construction.

U. "Manufactured Housing Park" means any place where four or more Manufactured Housing Dwelling Units are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee

paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured Housing Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one Manufactured Housing Dwelling Unit per lot.

V. "Minimum standards" for the City's park requirements are described and quantified in *Parks 2020 Vision* and the "SDC Methodology Report".

W. "Multi-family Dwelling Unit" means a portion of a building consisting of one or more rooms including living, sleeping, eating, cooking, and sanitation facilities arranged and designed as permanent living quarters for one family or household; attached to two or more dwelling units by one or more common vertical walls; and with more than one dwelling unit on one lot. This term includes, but is not limited to, triplex, quadraplex, condominium ownership, and apartment structures containing three (3) or more dwelling units.

X. "Non-Central City" means all portions of the City outside the Central City Service Area.

Y. "Non-Residential Development" means development which does not include dwelling units.

Z. "New Development" means Development for which a Building Permit is required.

AA. "Non-profit" means an entity that is certified as tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

BB. "Occupancy Group Codes" means the use codes (A-1, B, H, e.g.) in the *Oregon Structural Specialty Code, "Use and Occupancy Classification."*

CC. "Occupancy Use Types" means the occupancy classifications in the *Oregon Structural Specialty Code, "Use and Occupancy Classification."*

DD. "Parks and Recreation SDC Capital Improvement Plan" also called the Parks and Recreation SDC-CIP, means the City program set forth in the "SDC Methodology Report" that identifies all of the major parks and recreation system and facilities capacity-increasing improvements projected to be funded with Parks and Recreation SDC revenues.

EE. "Permit" means a Building Permit.

FF. "Previous use" means the most intensive use conducted at a particular property within the past 36 months from the date of completed Application. Where the site was used simultaneously for several different uses (mixed use) then, for the purposes of this Chapter, all of the specific use categories shall be considered. Where one us of the site accounted for 70% or more of the total area used, then that dominant use will be deemed to be the sole Previous Use of the site. Where the Previous Use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole Previous Use of the property for purposes of this Chapter.

GG. "Proposed use" means the use proposed by the Applicant for the New Development. Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Chapter, all of the specific use categories shall be considered. Where the Proposed Use is composed of a primary use with one or more ancillary uses that support the primary Proposed Use and are owned and operated in common, that primary use shall be deemed to be the sole Proposed Use of the property for purposes of this Chapter.

HH. "Qualified Public Improvement" means any parks and recreation system capital facility or conveyance of an interest in real property that:

1. increases the capacity of the City's Parks and Recreation System;

2. pertains to the park categories defined in *Parks 2020* or in the Park SDC/CIP: local access, city-wide access, regional, urban, neighborhood or community parks, botanic and community gardens trails, or habitat. If the proposed donation is a habitat, it must be adjacent to a Portland Parks property, or it must be a minimum of 3 contiguous acres with at least 66% of its area covered by the City's environmental overlay zone. If the proposed donation is a trail, it must be designated as a recreational trail on the City's Comprehensive Plan;

3. is approved by the Director of Parks; and

4. is in any of the following categories:

a. Is a capital improvement listed on the City's Parks and Recreation SDC-CIP or two year funded list of City of Portland Parks and Recreation Capital Improvement Program, regardless of the improvement's proximity to the Applicant's New Development site, and is not a Real Property Interest already committed by contract or other obligation to public recreational use;

b. Is a public recreational trail improvement within the Willamette River Greenway overlay zone as designated on the Official Zoning Maps within the Central City plan boundary, and that exceeds all development standards currently contained in PCC Title 33 (Chapter 33.440, 33.272, and 33.248). Credits will be given for improvements which will result in enhancement for habitat or public recreational use on the landward side of the top of the bank. Credits will be valued at 100% of the value of Real Property Interests that ensures perpetual public access (subject to reasonable temporary closures) and/or improvements that occur on the landward side of the required 25' minimum Greenway setback width, if the increase of width is at least 5'. The credit transfer mechanism described in 17.13.070 E is applicable to Real Property Interests at 25 percent of its appraised value. The use of Greenway credit transfers are valid only for New Development within the Central City, and is not available to Applicants that are using the Willamette River Greenway Bonus Option described in City Code 33.510.210 C. 9.

Reasonable improvements within the required 25' minimum Greenway setback shall also receive full Credit only for improvements that exceed the current basic required standards described in PCC Title 33 (Chapters 33.440, 33.272, and 33.248) or landscaping or mitigation plantings that are required as a Condition of Development Approval. The Credit transfer mechanism described in 17.13.070 E is not applicable to Greenway improvements. Greenway improvement SDC Credits may be used only on the New Development that included the Greenway improvement, including subsequent phases of multi-phase Development.

c. Is a conveyance of Real Property Interests or capital improvements for public recreational use that is required as a condition of development approval. For purposes of this section, the phrase "required as a condition of development approval" means

(1) requirements to construct improvements or convey Real Property Interests for public recreational use that are imposed as specifically listed conditions pursuant to a Code provision authorizing such conditions, or

(2) features of a development that are specifically stated as an element of a proposal that is approved by the review body.

d. An improvement or conveyance of Real Property Interests for parks and recreational use which does not otherwise meet the

requirements of this section, is not already committed by contract or other obligation to public recreational use, and in the opinion of the Director of Parks in his or her reasonable discretion the improvement or conveyance serves the City's public parks and recreation needs as well or better than the improvements or conveyance described above.

5. Conveyances of Real Property Interests or capital improvements for public recreational use specified in a development agreement between the City and a developer entered into after the effective date of this Ordinance are excluded from the definition of "qualified public improvement" unless the development agreement specifically provides otherwise. If the development agreement does include conveyances of Real Property Interests that are intended to be eligible for Parks SDC Credits, the value of the Real Property Interests must be established at the time the development agreement is finalized by the appraisal methods described in 17.13.070. The date of valuation is the date of the final development agreement. If there are subsequent amendments to the development agreement, the date of valuation will be the date of the original development agreement unless otherwise specified in future amendments.

6. In addition to capital improvements described in section 17.13.020 HH.1. through 5., the term "qualified public improvement" also includes agreements for long-term enhanced maintenance of park facilities within the City's Parks and Recreation System, provided the following requirements are met:

a. The Parks and Recreation System facilities for which enhanced maintenance is provided are located within the Central City Plan District as identified in PCC chapter 33.510;

b. The long-term maintenance obligations are specifically described in a binding agreement that contains adequate financial assurances to ensure performance of the maintenance obligations for the duration of the agreement;

c. The Parks Director has determined the net present value of the maintenance obligations in order to establish the amount of SDC credits; and

d. The Parks Director has determined, in each instance where long-term maintenance obligations are accepted, that acceptance of the long-term maintenance obligations will promote the interests of the

City's Parks and Recreation System as well or better than acceptance of capital improvements.

II. "Rate Group" means one of four rates or groups of rates, each of which has its own percentage split between land costs and development costs as follows:

	Central City	Non Central-City
Residential	55% Land Portion 45% Development Portion	55% Land Portion 45% Development Portion
Non-Residential	53% Land Portion 47% Development Portion	57% Land Portion 43% Development Portion

JJ. "Real Property Interests" means fee title, easement, or other permanent interests in real property as documented in a written conveyance.

KK. "Remodel" or "remodeling" means to alter, expand or replace an existing structure.

LL. "Resident Equivalent" means a measure of the impact on parks and recreation facility needs created by non-residential development, as compared to the impact of a resident.

MM. "Row house" means an attached single-family Dwelling Unit on a single lot.

NN. "Single-Family Dwelling Unit" shall mean a building or a portion of a building consisting of one or more rooms including living, sleeping, eating, cooking, and sanitation facilities arranged and designed as permanent living quarters for one family or household; may be attached to one or more than one other dwelling units by one or more vertical walls. In addition to detached single family dwelling units, this definition also includes duplex, zero-lot-line, townhouse, and row house dwelling units designed for one family or household.

OO. "SDC Methodology Report" means the methodology report entitled *Parks System Development Charge Methodology Update Report*, dated March 5, 2008 and adopted as Exhibit B to Ordinance 181669.

PP. "Single Room Occupancy Unit (SRO)" means one dwelling unit that provides a living unit that has a separate sleeping area and some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents. "SRO" includes structures commonly called residential hotels and rooming houses.

QQ. "Temporary use" means a construction trailer or other non-permanent structure.

RR. "Town House" means an attached single-family Dwelling Unit on a shared lot.

17.13.030 Rules of Construction.

For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction shall apply:

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text shall control.

B. The word "shall" is always mandatory and not discretionary: the word "may" is permissive.

C. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

D. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

E. Where a regulation involves two or more connected items, conditions, provisions, or events:

1. "And" indicates that all the connected terms, conditions, provisions or events shall apply;

2. "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

F. The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

17.13.040 Application.

(Amended by Ordinance No. 181669, effective January 1, 2009.) This Chapter applies to all New Development throughout the City of Portland. The amount of the Parks and Recreation SDC shall be calculated according to this section, using the rates set forth in the SDC Methodology Report.

A. Except as otherwise provided in this Chapter, a Parks and Recreation SDC shall be imposed upon all New Development for which an Application is filed on or after the effective date of this ordinance.

B. Except as otherwise provided in this Chapter, Manufactured Housing shall be charged at the Manufactured Housing SDC rate.

C. The Applicant shall at the time of Application provide the Administrator with the information requested on an SDC application form regarding the previous and proposed use(s) of the property, including the following:

1. A description of each of the previous and proposed uses for the property for which the Permit is being sought--with sufficient detail to enable the City to calculate dwelling units and square footage for the entire property under the previous use and for the proposed use(s) of the New Development.

2. For residential uses--the number of residential dwellings, including type (i.e., single family, multi-family, etc.).

3. For non-residential uses--the square footage for each type of occupancy use type (i.e., office, retail, etc.).

D. Except as otherwise provided in this Chapter, the amount of the SDC due shall be calculated by determining the dwelling units and/or square footage for the previous use(s) of the property and the dwelling units and/or square footage for all of the proposed use(s); calculating the total SDC for the previous use(s) and the proposed uses(s); and subtracting the total SDC for the previous use(s) from the total SDC for the proposed use(s) to arrive at the net Park SDC due.

E. Notwithstanding any other provision, the dollar amounts of the SDC set forth in the SDC Methodology Report are based on October 2007 values and shall be adjusted on January 2009 and thereafter annually on January 1st to account for changes in the costs of acquiring and constructing parks facilities. The adjustment factor shall be based on:

1. the percent change in average market value of residential and commercial land in the City, measured from October, 2007, annually, to the quarter prior to the rate change, according to the records of the Multnomah County Tax Assessor,

2. the portion of Rate Group growth costs for land identified in the SDC-CIP,

3. the percent change in average construction costs measured from October, 2007, annually, to the quarter prior to the rate change, according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index, and

4. the portion of Rate Group growth costs for development identified in the SDC-CIP,

The adjustment factor for each Rate Group shall be determined as follows:

Percent change in Land Value multiplied by the Rate Group's Land Portion (percent)
\+ Percent change in Construction Cost Index multiplied by the Rate Group's Development Portion (percent)
= Park SDC Rate Group Adjustment Factor

The resulting Adjustment Factor shall be multiplied by the adopted SDC rates by Rate Group and added to the base charges.

F. Notwithstanding any other provision, the adjustment shall not exceed a total of 12 percent in any consecutive two-year period. This shall be calculated by dividing the proposed new rate by the rate of two years prior. If the resulting change is greater than 12 percent, the rate shall be set at 12 percent variance from the rate of two years prior.

17.13.050 Application Requirements

(Amended by Ordinance Nos. 176955 and 181669, effective January 1, 2009.) All Applications must meet the application completeness requirements of the Planning Bureau and Bureau of Development Services. Where construction requires a land division, the Applicant must have final plat approval prior to submitting a Building Permit Application.

This Ordinance shall apply to all Building Permits for New Development not yet complete as of the effective date and those which are subsequently submitted or made complete. Fees are assessed based on the rate schedule in use on the date that the permit application is made complete. For purposes of this Section, a complete Application shall be one for which the following documents have been submitted by the Applicant and accepted by the City:

A. For Multi-Family Housing and additions, and for all non-residential development and additions, the following documents must be submitted:

1. A completed Building Permit Application form.

2. Payment of the required plan review and processing fees for the Site Development Permit.

3. Completed System Development Charge information form.

4. Information sufficient to construct building foundations for the proposed structure, including engineering and structural calculations, soils report, 100 percent construction documents for foundation.

B. For Manufactured Housing Park New Development, the following documents must be submitted:

1. A completed Building Permit Application form.

2. Payment of the required plan review and processing fees for the site development permit.

3. Information sufficient to construct the Manufactured Housing Park for the future placement of the manufactured homes, which could include engineering and structural calculations, soils report, 100 percent construction documents for foundations.

C. For residential changes of use and alteration projects resulting in additional residential units, the following documents must be submitted:

1. A completed Building Permit Application form.

2. Payment of the required plan review and processing fees for the site development permit.

3. A floor plan indicating the previous uses.

4. A floor plan indicating the proposed changes in use.

5. 100 percent construction drawings.

D. For new single family, separate manufactured home on an individual lot (as opposed to a manufactured home park), townhouses/row houses, and duplex construction, the following documents must be submitted:

1. A completed Building Permit Application form.

2. Payment of the required plan review and processing fees for the site development permit.

3. 100 percent construction drawings sufficient to construct the building, including any required soils reports, engineering calculations and drawings.

17.13.060 Partial and Full Exemptions.

(Amended by Ordinance Nos. 176511, 179008, 181669 and 183448, effective July 1, 2010.) The uses listed and described in this Section shall be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must apply for an Alternative Exemption calculation under Section 17.13.080. The Applicant has the burden of proving entitlement to any exemption so requested.

A. Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.

B. Affordable housing is exempt pursuant to Section 30.01.095.

C. Alteration permits for tenant improvements are fully exempt.

D. New construction or remodeling where no additional Dwelling Unit(s) or non-residential square footage are created is fully exempt.

E. For New Development which includes a mix of exempt and non-exempt forms of Development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies.

17.13.070 SDC Credits and SDC Reimbursements.

(Amended by Ordinance Nos. 172732, 172758, 173386, 174617 and 181669, effective January 1, 2009.) SDC Credits:

A. The City shall grant a Credit against the Parks SDC, which is otherwise assessed for an New Development, for any Qualified Public Improvement(s) constructed or conveyed as part of that New Development. For purposes of this section, a Qualified Public Improvement will be considered part of a New Development when the application for a credit is made and the New Development is identified by a Building Permit Number. The Applicant bears the burden of evidence and

persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

B. To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the new Development. In the request, the Applicant must identify the improvement(s) for which Credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which Credit is sought. If, in the Administrator's opinion, the improvement(s) is a Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be granted. The value of the SDC Credits under this section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:

1. For Real Property Interests, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;

2. For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City shall inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. The City shall limit credits to reasonable costs. Credits shall be awarded only in conjunction with an application for development;

3. For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant;

C. The Administrator will respond to the Applicant's request in writing within 21 days of when the request is submitted. The Administrator shall provide a written explanation of the decision on the SDC Credit request.

1. The "Request for Parks SDC Credit for Qualified Public Improvement" (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. The Committee shall be composed of

representatives of the following organizations:

a. Metropolitan Home Builders Association

b. Coalition for a Livable Future

c. League of Women Voters

d. Developer-at-Large

e. Parks Board Member or Designee

f. Portland Business Alliance Member or Designee

If a vacancy occurs, the organization will nominate a replacement. Members of the committee will be nominated by their respective organizations and appointed by the Director of Parks and Recreation.

2. The Committee shall review each proposal and forward a recommendation, along with any minority viewpoints. The Director will make a decision within 60 days of the application.

3. Certified copies of the decision and the Committee recommendations will be transmitted to the Auditor of the City of Portland, who will file them in a special record of such decisions. All such decisions of the Director shall be accessible to the public under like terms as ordinances of the City of Portland. Any decision of the Director shall be subject to amendment, repeal, or alteration by the City Council, but any such action must take place within 30 days of the decision.

D. If the Applicant disputes the Administrator's decision with regard to an SDC Credit request, including the amount of the Credit, the Applicant may seek an alternative SDC Credit calculation under Section 17.13.080. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial Credit request.

E. When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, "subsequent phases of the original development project" means additional New Development that is approved as part of the same regulatory development approval, (such as elements

approved as part of the same conditional use master plan or planned unit development) or other portions of the same "site" (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.

F. The Applicant may request that the portion of the Park SDC credit relative to the Non-Local Access portion of the SDC fee be applied to their development anywhere within the City. The proportional breakdown of Local Access portion to Non-Local Access portion as follows:

	Central City	Non Central-City
Residential	49% Local Access 51% Non-Local Access	34% Local Access 66% Non-Local Access
Non-Residential	46% Local Access 54% Non-Local Access	0% Local Access 100% Non-Local Access

G. Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within 10 years of the date of issuance.

H. Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in development agreements adopted before June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

17.13.080 Alternative Calculation for SDC Rate, Credit, or Exemption.
(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation, alternative SDC Credit determination, or alternative SDC exemption, but only under the following circumstances:

1. The Applicant believes that the number of persons per Dwelling Unit for residential development, or resident equivalents per 1,000 square feet for non-residential development, resulting from the New Development is, or will be, less than the number of persons per Dwelling Unit or resident

equivalents per 1,000 square feet established in the SDC Methodology Report, and for that reason, the Applicant's SDC should be lower than that calculated by the City.

2. The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for Credit under Section 17.13.070, or the City accepted for Credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the Credit.

3. The Applicant believes the City improperly rejected a request for an exemption under Section 17.13.060 for which the Applicant believes it is eligible.

B. Alternative SDC Rate Request

1. If an Applicant believes that the occupancy assumptions for the class of structures that includes New Development are inaccurate, in that, for residential development, the number of persons per Dwelling Unit is, or will be, less than the number of persons per Dwelling Unit established in the SDC Methodology Report, or for non-residential development, the number of resident equivalents per 1,000 square feet is, or will be, less than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report, the Applicant must request City consideration of an alternative SDC rate calculation, under this section, no later than the time the City completes the final inspection for the New Development. Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development. The City shall not entertain such a request filed after the City has completed the final inspection for the new Development. Upon the timely request for an alternative SDC rate calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC Rate request, the Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed Alternative SDC Rate calculation shall include an explanation

with particularity why the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.

3. The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found:

a. The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section, and

b. The calculation of the proposed Alternative SDC rate was by a generally accepted methodology, and

c. The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.

4. If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative Parks and Recreation SDC Rate.

C. Alternative SDC Credit Request

1. If an Applicant has requested an SDC Credit pursuant to Section 17.13.070, and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation, under this section, no later than the time the City completes the final inspection for the New Development. The City shall not entertain such a request filed after the City has completed the final inspection for the new Development. Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC Credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is seeking Credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of

analysis as a means of supporting the proposed Alternative SDC Credit.

3. The Administrator shall apply the Alternative SDC Credit if, in the Administrator's opinion, the following are found:

a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and

b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies, and

c. The proposed Alternative SDC Credit is based on realistic, credible valuation analysis.

4. If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed Alternative Parks and Recreation SDC Credit proposal.

D. Alternative SDC Exemption Request:

1. If an Applicant has requested a full or partial exemption under Section 17.13.060 and that request has been denied, the Applicant may request an Alternative SDC Exemption under this Section, no later than the time the City completes the final inspection for the new Development. The City shall not entertain such a request filed after the City has completed the final inspection for the New Development. Upon the timely request for an Alternative SDC Exemption, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.13.060 for exemptions.

2. In support of the Alternative SDC Exemption request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions described in Section 17.13.060.

3. The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.13.060.

4. Within 21 days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

17.13.090 Payment.

(Amended by Ordinance Nos. 173565, 181669 and 183447, effective July 1, 2010.)

A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS Chapter 223.208 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this Code, before the City will issue any Building Permits.

B. Upon written request of Portland Parks & Recreation, the City Auditor is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.

C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

17.13.100 Refunds.

(Amended by Ordinance No. 181669, effective January 1, 2009.) Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. The City shall refund to the Applicant any SDC revenues not expended within ten (10) years of receipt. Refunds will be given, upon request by the Applicant, when a building permit application is canceled.

17.13.110 Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. There is created a dedicated account entitled the "Parks and Recreation SDC Account." All monies derived from the Parks and Recreation SDC shall be placed in the Parks and Recreation SDC Account. Funds in the Parks and Recreation SDC Account shall be used solely for the purpose of providing

capacity-increasing capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or a hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include:

1. design and construction plan preparation;

2. permitting;

3. land and materials acquisition, including any costs of acquisition or condemnation;

4. construction of parks and recreation capital improvements;

5. design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;

6. relocating utilities required by the construction of improvements;

7. landscaping;

8. construction management and inspection;

9. surveying, soils and material testing;

10. acquisition of capital equipment that is an intrinsic part of a facility;

11. demolition that is part of the construction of any of the improvements on this list;

12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities;

13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.

B. Money on deposit in the Parks and Recreation SDC Account shall not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or

2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or

3. costs associated with acquisition or maintenance of rolling stock

C. The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, during any period of twenty years, the City shall not spend less SDC revenues for local access parks within any City parks planning sub-area than the total amount of SDC revenues collected for local access parks within that sub-area.

17.13.120 Challenges and Appeals.

(Amended by Ordinance No. 174617, effective July 28, 2000.)

A. Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be $100.

B. Except where a different time for an Administrator's decision is provided in this Chapter, all Administrator decisions shall be in writing and shall be delivered to the Applicant within 21 days of an Application or other Applicant request for an Administrator determination. Delivery shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Any person may appeal any decision of the Administrator made pursuant to this Chapter to the City Hearings Officer by filing a written request with the Administrator within fourteen (14) days after the delivery of the Administrator's written decision to the Applicant. The fee for appealing a decision to the Hearings Officer shall be $250 and shall accompany the request for appeal. An outline of these appeal procedures shall be included in the Administrator's written decision.

C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100.

D. The City shall withhold all Permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.13.130 City Review of SDC.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. No later than every five (5) years as measured from initial enactment, the City shall undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP identified capacity increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.

B. In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.

C. The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.140 Time Limit on Expenditure of SDCs.

The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

17.13.150 Implementing Regulations.

The Director of the Bureau of Parks and Recreation may adopt regulations to implement the provisions of this chapter.

17.13.160 Amendment of the Parks and Recreation SDC-CIP List.

(Amended by Ordinance No. 181669, effective January 1, 2009.) The City Council may, by resolution, amend its Parks and recreation SDC-CIP list as set forth in the SDC Methodology Report, from time to time to add or remove projects the City deems appropriate. The Administrator may, at any time, change the timing and sequence for completion of projects included in the Parks and Recreation SDC-CIP list.

17.13.170 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 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. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such an unconstitutional provision not been included herein.

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.

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.

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.

Chapter 17.15

TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

(Chapter added by Ordinance No. 171301, effective July 18, 1997.)

Sections:

17.15.010 Scope and Purposes
17.15.020 Definitions
17.15.030 Rules of Construction
17.15.040 Application
17.15.050 Partial and Full Exemptions
17.15.060 SDC Credits, SDC Credit Transfers and SDC Reimbursements
17.15.070 Alternative Calculation for SDC Rate, Credit or Exemption
17.15.080 Payment
17.15.090 Refunds
17.15.100 Dedicated Account and Appropriate Use of Account
17.15.110 Challenges and Appeals
17.15.120 City Review of SDC
17.15.130 Time Limit on Expenditure of SDCs
17.15.140 Implementing Regulations; Amendments
17.15.150 Amendment of SDC-CIP List
17.15.160 Severability

17.15.010 Scope and Purposes.

(Amended by Ordinance Nos. 181322, 182652 and 184756, effective November 1, 2011.)

A. New development within the City of Portland contributes to the need for capacity increases for roads, multi-modal transportation and related transportation improvements, to enable new development to take advantage of transit systems and, therefore, new development should contribute to the funding for such capacity increasing improvements. This SDC will fund a portion of the needed capacity increases for arterial, boulevard and collector roads, multi-modal transportation improvements and associated bus and transit improvements, sidewalks, bicycle and pedestrian facilities, street lighting and stormwater drainage and treatment facilities, and other public facilities specified in the City of Portland Transportation System Plan.

B. ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity increasing capital improvements to new development.

C. The SDC is incurred upon application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. This SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development's receipt of transportation services based upon the nature of that development.

D. The SDC imposed by this Chapter is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning of Section 11g, Article XI of the Oregon Constitution.

E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the construction of capacity increasing improvements to arterial, boulevard and collector roads as well as to bicycle, pedestrian and transit facilities as contemplated in the Transportation Element of the City Comprehensive Plan, City of Portland Transportation System Plan and the list of projects, referred to as the SDC-CIP, to be funded with money collected under this Chapter and incorporated as Table 3-2 in the attached Update of Transportation System Development Charges rate study, (dated July 2007), as well as Table 3-2 in the attached North Macadam Transportation System Development Charge TSDC Overlay Rate Study, (dated January 2009) and Table 3-1 in the attached Innovation Quadrant Transportation System Development Charge Overlay Project Report (dated May 2011). The SDC-CIP is not to be confused with the City of Portland Capital Improvement Program.

F. This Chapter is intended only to be a financing mechanism for the capacity increases needed for major City traffic and collector streets, multi-modal improvements associated with new development and capacity increasing transportation improvements and does not represent a means to fund maintenance of existing roads or the elimination of existing deficiencies.

G. The City hereby adopts the methodology report and rate study entitled Update of Transportation System Development Charges, (dated July 2007), as well as the attached North Macadam Transportation System Development Charge TSDC Overlay Rate Study, (dated January 2009), and the attached Innovation Quadrant Transportation System Development Charge Overlay Project Report (dated May 2011) and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth. These reports are

hereinafter referred to as "City Rate Study" and is attached to Ordinance No. 181322 as Exhibit A, "North Macadam Overlay Rate Study", attached to Ordinance No. 182652 as Exhibit A, and "Innovation Quadrant Overlay Project Report", attached to Ordinance No.184756 as Exhibit A. The City Council may from time to time amend or adopt a new City Rate Study by Ordinance.

H. The Transportation SDC provided for in this Chapter is designed to help finance the Transportation System facilities listed in Table 3-2 in the SDC-CIP as a means of ensuring that adequate capacity is maintained in the City's Transportation System. However, the City specifically recognizes that the entire project list will likely not receive full funding from the proceeds of this SDC, and it is unlikely that every one of the projects listed will be constructed. The City recognizes that the project list in the SDC-CIP is not complete but that construction of other projects, not included on the SDC-CIP, may also advance the policy objective of maintaining capacity in the City's Transportation System.

I. In conjunction with the Transportation System capacity objectives of this Chapter, the City also seeks to encourage certain types of development by granting a partial or full credit for the Transportation SDC. In particular, the city places a high priority on the development of low-income housing. The City has also recognized a higher public purpose in Transit Oriented Development (TOD) in creating a more dense, mixed-use urban design that promotes and integrates transit ridership with housing. Likewise, the development of low-income housing promotes the public purpose of providing quality housing options for families and individuals earning 60 percent or less of the Area Median Income. Providing a credit for the Transportation SDC will make it possible to develop more and better low income housing within the metropolitan area where jobs and shopping are available by transit and non-motorized modes. For both the low income housing and TOD credit, the City has made the policy decision that the entire SDC-CIP project list may not be fully funded, but that other policy objectives, equally important as maintaining transportation system capacity, will be advanced.

17.15.020 Definitions.

(Amended by Ordinance Nos. 171698, 172677, 173121, 175717, 176782, 181322, 182389, 182652, 184756 and 185459, effective June 27, 2012.)

A. **"Accessway"** means a walkway that provides pedestrian and/or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or

similar devices and include landscaping, trees and lighting. Where Accessways cross driveways, they may be raised, paved or marked in a manner which provides convenient access for pedestrians.

B. **"Administrator"** means that person as appointed by the Director of Transportation to manage and implement this SDC program.

C. **"Alternative System Development Charge"** means any SDC established pursuant to Section 17.15.070 of this Chapter.

D. **"Applicant"** means the person who applies for a Building Permit.

E. **"Application"** means the written request by an Applicant for a Building Permit.

F. **"Building Official"** means that person, or his designee, certified by the State and designated as such to administer the State Building Codes for the City.

G. **"Building Permit"** means that permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code or as amended, and the State of Oregon Residential Specialty Code or as amended. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the City Building Official, relating to the placement of manufactured homes in the City.

H. **"City"** means City of Portland, Oregon.

I. **"City Rate Study"** means the methodology report entitled *Update of Transportation System Development Charges,* dated July 2007 and adopted as Exhibit A to Ordinance No. 181322.

J. **"Comprehensive Plan"** means the current, adopted Comprehensive Plan of the City of Portland.

K. **"Condition of Development Approval"** is a Bureau of Transportation requirement imposed on an Applicant by a city land use or limited land use decision, site plan approval or building permit either by operation of law, including but not limited to the City Code or Rule or regulation adopted thereunder, or a condition of approval.

L. **"Construction Cost Index"** means the National Highway Construction Cost Index published by the Federal Highway Administration.

M. **"Credit"** means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.

N. **"Developer"** means the person constructing a Qualified Public Improvement prior to the construction of the New Development.

O. **"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 has the effect of generating additional weekday or weekend trips. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

P. **"Director of Transportation"** means that person or her or his designee who is responsible for managing the Bureau of Transportation.

Q. **"Finance Director"** means that person or his or her designee who is responsible for managing the Finance Department for the City of Portland.

R. **"Innovation Quadrant Overlay Project Report"** means the methodology report entitled Innovation Quadrant Transportation System Development Charge Overlay Project Report, dated May 2011 and adopted as Exhibit A to Ordinance. No. 184756.

S. **"Innovation Quadrant Transportation System Development Charge TSDC Overlay"** means a transportation system development charge (TSDC) zone over the Innovation Quadrant area, as it presently exists or may be amended in the future, in which additional SDCs are collected and expended on capacity-increasing projects to serve future users within the Innovation Quadrant.

T. **"Institutional Development"** means development associated with a medical or educational institution and associated uses, on a site of at least five acres in area. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or a degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial or light industrial uses, residential and other uses.

U. **"ITE Manual"** means that manual entitled "An Institute of Transportation Engineers Informational Report - Trip Generation" Seventh Edition (2003) or as amended. A copy of the ITE Manual shall be kept on file with the Bureau of Transportation.

V. **"Multi-Modal"** means vehicular, transit, bicycle, pedestrian and wheel chair transportation.

W. **"New Development"** means Development on any site which increases overall trip generation from the site according to Table 4-9 of The City Rate Study or pursuant to Section 17.15.070 of this Chapter. Except as provided under Section 17.15.050, New Development for purposes of this Chapter includes remodeling to the extent that it generates additional trips.

X. **"Non-Motorized"** means transportation that is neither vehicular or transit. Non-motorized includes pedestrian and bicycle transportation. Pedestrian transportation includes wheelchair transportation regardless of whether the wheelchair is motorized or hand propelled.

Y. **"North Macadam Overlay Rate Study"** means the methodology report entitled North Macadam Transportation System Development Charge TSDC Overlay Rate Study, dated January 2009 and adopted as Exhibit A to Ordinance 182652.

Z. **"North Macadam Transportation System Development Charge TSDC Overlay"** means a transportation system development charge (TSDC) zone over the entire North Macadam urban renewal area (URA), as it presently exists or may be amended in the future, in which additional SDCs are collected and expended on capacity-increasing projects to serve future users within North Macadam.

AA. **"Over-capacity"** means that portion of an improvement that is built larger or with greater capacity (over-capacity) than is necessary to serve the Applicant's New Development or mitigate for transportation system impacts attributable to the Applicant's New Development. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development.

BB. **"Pedestrian Connection"** means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connections may also include rights-of-way or easements for future pedestrian improvements.

CC. **"Permit"** means a Building Permit.

DD. **"Planned light rail station"** means a station included in local and regional transportation plans for which a full funding agreement has been executed by the Federal Transit Administration or other U. S. governmental agency, which

agreement contains the terms and conditions applicable to the approval of a light rail project and the grant of federal funds for that project which includes construction of planned stations and other light rail facilities.

EE. **"Port Development"** means a planned development owned or operated by a unit of government involving a facility used for cargo freight or passenger transportation by air, water, rail or public mass transit, including accessory uses. Uses that are accessory to Port Development are those which send or receive cargo freight or are related to passenger movement or service.

FF. **"Previous use"** means the most recent permitted use conducted at a particular property. Where the site was used simultaneously for several different uses (mixed use) then, for purposes of this Chapter, all of the specific use categories shall be considered. Where one use of the site accounted for 70 percent or more of the total area used, then that dominant use will be deemed to be the sole previous use of the site. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property for purposes of this Chapter.

GG. **"Proposed use"** means the use proposed by the Applicant for a New Development. Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Chapter, all of the specific use categories shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use shall be deemed to be the sole proposed use of the property for purposes of this chapter.

HH. **"Qualified Public Improvement"** means any transportation system capital improvement or conveyance of an interest in real property that increases the capacity of the City's Transportation System and is in one of the following categories:

1. Is a capital improvement listed on the City's SDC-CIP regardless of the improvement's proximity to the Applicant's New Development site or

2. Pertains to an arterial or collector street and is required by the Bureau of Transportation as a condition of the development approval and in the opinion of the Administrator is built larger or with greater capacity (over-capacity) than is necessary to serve the Applicant's New Development or mitigate for transportation system impacts attributable to the Applicant's New Development. There is a rebuttable presumption that improvements built to the Bureau of Transportation's minimum standards are required to serve the Applicant's New Development and to mitigate for

transportation system impacts attributable to the Applicant's New Development. Potentially eligible improvements include, but are not limited to:

a. vehicle travel, turning or refuge lanes and traffic signals and sidewalks

b. bicycle lanes, bicycle parking facilities or bicycle lockers, other than those required by the Bureau of Transportation to serve the Applicant's New Development, or

c. any improvement to traffic or transportation safety that corrects an identified safety problem or defect in the City's transportation system.

II. **"Remodel" or "Remodeling"** means to alter, expand or replace an existing structure.

JJ. **"Right-of-Way"** means that portion of land that is dedicated for public use including use for pedestrians, bicycles, vehicles and transit, utility placement and signage.

KK. **"Roads"** means streets, roads and highways.

LL. **"Temporary use"** means a construction trailer or other non-permanent structure.

MM. **"Transit Oriented Development"** means

1. All development located within the following subdistricts of the Central City Plan District as shown on Map 510-8 of PCC Chapter 33.510: DT 1 through DT 6-2; UD 1-1 and UD 1-2; RD 3,4,5-1 and 5-2; GH 1; CE 2 and 3; and LD 1-4.

2. Any development located in any other subdistrict of the Central City Plan District that either

a. includes at least 40 units of housing per net acre, or

b. achieves a floor area ratio of 2 to 1.

3. Any development, except an auto-related use as defined in City Code 33.910, located outside the Central City Plan District that is within 500 feet of a street with fixed-route frequent (every 15 minutes or better

during the day) transit service or within 1,000 feet of a light rail station and that either:

a. includes at least 30 units of housing per acre of site, and there are no drive through facilities, or

b. achieves a floor area ratio of 1 to 1, and there are no drive through facilities, or

c. is located in a commercial zone where no parking is required by the Planning and Zoning code of the City if Portland and no on-site parking is provided and there are no drive through facilities.

For purposes of this definition, "site" shall include the building footprint and all associated land required for parking, landscaping and the like. For the purpose of this definition, "fixed-route frequent transit service" shall include the I-205 light rail corridor and "light rail station" shall include the I-205 light rail stations.

NN. **"Transportation SDC Capital Improvement Plan,"** also called SDC-CIP, means the City program set forth in the City Rate Study that identifies all of the major transportation system and facilities capacity, safety, reconstruction, bicycle, pedestrian, transit and bridge improvements projected to be necessary to accommodate existing and anticipated transportation system demands within the next 10 years as described in the Update of Transportation System Development Charges, (dated July 2007), and within the next 20 years as described in the North Macadam Transportation System Development Charge TSDC Overlay Rate Study, (dated January 2009).

OO. **"Transportation System Development Charge," or "SDC,"** refers to the fee to be paid under this Chapter.

PP. **"Transportation System Plan" or "TSP"**, means the current, adopted 20-year plan for transportation improvements in the City of Portland.

QQ. **"Vehicle"** means motorcycles, automobiles, trucks, boats and recreational vehicles, but does not include transit, bicycles and motorized wheelchairs for the disabled.

RR. **"Vehicular"** means a reference to a vehicle.

SS. **"Walkway"** means an area intended and suitable for use by pedestrians, that meets standards of the American with Disabilities Act, located in public right-of-way.

17.15.030 Rules of Construction.

For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction shall apply:

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text shall control.

B. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

C. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

D. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

E. Where a regulation involves two or more connected items, conditions, provisions, or events:

1. "And" indicates that all the connected terms, conditions, provisions or events shall apply;

2. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

F. The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

17.15.040 Application.

(Amended by Ordinance Nos. 181322, 182652, 184756, 185195 and 185459, effective June 27, 2012.) This Chapter applies to all New Development throughout the City of Portland except for those areas where Washington County, Multnomah County or Clackamas County imposes a transportation SDC or Traffic Impact Fee. The amount of the Transportation SDC shall be calculated according to this section. For any New Development within the North Macadam Urban Renewal Area boundaries, the transportation SDC shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the North Macadam Overlay Rate Study. For any New Development within the Innovation Quadrant area boundaries, the transportation SDC shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the Innovation Quadrant Overlay Project Report.

A. New Development.

1. Except as otherwise provided in this Chapter, a Transportation SDC shall be imposed upon all New Development for which an Application is filed after October 18, 1997.

2. The Applicant shall at the time of Application provide the Administrator with the information requested on an SDC application form regarding the previous and proposed use(s) of the property, including the following:

a. A description of each of the previous and proposed uses for the property for which the Permit is being sought--with sufficient detail to enable the City to calculate trip generation for the entire property under the previous use and for the proposed use(s) of the New Development.

b. For residential uses--the number of residential dwellings, including type, e.g., single family or multi-family.

c. For commercial uses--the square footage for each type of commercial use, e.g., office, retail, etc.

3. Except as otherwise provided in this Chapter, the amount of the SDC due shall be determined by estimating the trip generation of the previous use(s) on the property and the trip generation for all of the proposed use(s) and then calculating the total SDC for the previous use(s) and the proposed uses(s) as provided in Table 4-9 of The City Rate Study, and if applicable, Table 4-9 of the North Macadam Overlay Rate Study or Table 4-8 of the Innovation Quadrant Overly Project Report.

a. If the vehicle trips attributable to the proposed use of the New Development are within 15 percent ± of the vehicle trips attributable to the total previous use of the property and does not increase or decrease vehicle trips by more than 250 vehicle trips, the Applicant is not required to pay any SDC and is not eligible for any SDC reimbursement or credit.

b. If the vehicle trips attributable to the proposed use of the New Development are more than 115 percent of the vehicle trips attributable to the total previous use, the Applicant shall pay the difference between the SDC attributable to the proposed use and the SDC attributable to the total previous use.

c. If the vehicle trips attributable to the proposed New Development are less than 85 percent of the vehicle trips attributable to the total previous use(s), the Applicant shall be eligible for an SDC Reimbursement under Section 17.15.060.

4. In the event an identified use does not have a basis for trip determination stated in The City Rate Study, the Administrator shall identify the land use or uses that has/have a trip generation rate most similar to the use(s) in question and apply the trip generation rate most similar to the proposed use or uses.

5. Notwithstanding any other provision, the dollar amounts of the SDC set forth in The City Rate Study as well as the North Macadam Overlay Rate Study and the Innovation Quadrant Overlay Project Report shall on July 1st of each year be increased or decreased automatically by the difference of the 10-year moving average of the National Highway Construction Cost Index published by the Federal Highway Administration.

B. Institutional Development.

1. Institutional Development shall be subject to assessment under this Subsection or under Subsection 1 above, at the election of the Applicant. If the Applicant elects assessment under this Subsection, this method of assessment shall be utilized on Institutional properties designated in the election for a period of not less than three years from date of initial election.

2. Within 60 days of election of the alternate assessment under this Subsection, the Applicant Institution shall submit the proposed methodology for counting trips to the Administrator. The Administrator shall determine whether the proposed methodology is acceptable within 20 days from the date of election and submission, and, if the methodology is rejected, the Administrator shall provide an explanation for the decision.

3. Within one year of the date of election of the alternative method of assessment under this Subsection, at the time(s) designated in the accepted methodology to count trips, the applicant Institution shall establish the average weekday trip count. Such data and related analysis shall be based upon a methodology to calculate trips accepted by the Administrator. This average weekday trip count shall be calculated, unless otherwise specified in the accepted methodology, by dividing the total current average weekday trips that occur in each mode during an average week by the number of weekdays.

4. The amount of the SDC shall be determined at the end of each 12 month period by multiplying the applicable dollar amount, as provided in the City Rate Study, by the change in average weekday trip count by mode type during the intervening 12 month period over the highest prior documented average weekday trip count since October 18, 1997. Such SDC, if any, shall be due and payable within 45 days from the close of the 12-month period. A reduction in trips by any mode shall allow the Applicant Institution to reduce future annual assessment against the same mode by the number of such reduced trips.

5. For uses that calculate the SDC using a unit of measure other than square feet, such as the number of students, movie screens, etc., the first Application submitted for such a use that is subject to this Chapter shall establish the baseline number of existing units of measure. No SDC shall be assessed against that baseline. A baseline trip rate so established shall be valid, and need not be recalculated, for the next 12 months.

C. Port Development. At the applicant's option, Port Development may be subject to assessment under Subsection A. of this Section, or under this Subsection. If the Applicant elects assessment under this Subsection C., the Applicant and the City shall negotiate an agreement for the payment of a fee in lieu of the Transportation SDC that includes the following elements:

1. A methodology for estimating the amount of the SDC which would be imposed pursuant to Subsection A. or B. above, during a period of not less than either 3 years or until the expiration of the SDC project list, whichever is less, nor more than 10 years as specified by the Applicant. The methodology shall take into account the Port Development anticipated under the Applicant's master plan during the period specified in that plan, the trips that the Port Development is expected to generate, trip levels against which SDC charges have historically been assessed, the anticipated increases or decreases in the dollar amounts of the SDC during the specified period, any applicable credits or exemptions and any other factors which the Administrator deems to be relevant. In no event shall the charge estimated under this Subsection be less than the SDC that would otherwise be due for the Port Development and the Applicant shall indicate its agreement to the methodology in writing; and

2. A payment period shall be imposed by which the Applicant shall pay in full the amount due within 12 months of the Applicant's agreement to the methodology.

3. In the event the Applicant and the City are unable to agree to a methodology under this Subsection, the normal method of calculating and assessing the SDC under Subsection A. or B. shall apply.

17.15.050 Partial and Full Exemptions.

(Amended by Ordinance Nos. 171698, 173437, 177198, 181322, 182389, 182652, 183679, 183448, 184756, 185195 and 185987, effective May 17, 2012.) The uses listed and described in this section shall be exempt, either partially or fully, from payment of the Transportation SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption within 180 days after building permit issuance for the New Development. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must apply for an Alternative Exemption calculation under Section 17.15.070. The Applicant has the burden of proving entitlement to any exemption so requested.

A. Temporary uses are fully exempt so long as the use or structure proposed in the New development will be used not more than 180 days in a single calendar year.

B. New Development which, will not generate more than 15 percent more vehicle trips than the present use of the property and does not increase vehicle trips by more than 250 vehicle trips shall be fully exempt.

C. Affordable housing is exempt pursuant to Section 30.01.095.

D. The City of Portland is phasing out the exemption for the Transit Oriented Development (TOD) as calculated per Section 17.15.050 D.1. and 3. below. From January 1, 2008 through December 31, 2008, eligible development shall receive 100 percent of the exemption; from January 1, 2009 through December 1, 2009, eligible development shall receive 67 percent of the total exemption; and from January 1, 2010 through December 31, 2010, eligible development shall receive 33 percent of the total exemption. No TOD exemption shall be provided after December 31, 2010, as calculated per Section 17.15.050 D.1. and 3.
Transit Oriented Development (TOD) as calculated per Section 17.15.050 D.2. shall be exempt from the SDC as described below from January 1, 2008 through December 31, 2012. No TOD exemption shall be provided after December 31, 2012.

No exemption for Transit Oriented Development (TOD) shall be provided for any SDC based upon the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report.

1. Within the Central City Plan District, New Development that meets Transit Oriented Development definition MM.1., MM.2.a. or MM.2.b. shall be liable for only 10 percent of the vehicle portion of the SDC and 90 percent of the transit and non-motorized portion of the SDC.

2. For all areas outside of the Central City Plan District, New Development that meets Transit Oriented Development definition MM.3.a., MM.3.b., or MM.3.c. shall be liable for only 50 percent of the vehicle portion of the SDC and 100 percent of the transit and non-motorized portion of the SDC.

3. For all areas outside of the Central City Plan District, New Development that meets the density requirements in Transit Oriented Development definition MM.2.a., or MM.2.b. shall be liable for only 10 percent of the vehicle portion of the SDC and 90 percent of the transit and non-motorized portion of the SDC.

E. Graded Scale: A change in occupancy of an existing building where the gross enclosed floor area does not exceed 3,000 square feet is fully exempt. A change in occupancy of an existing building where the gross floor area is between 3,000 square feet and 5,000 square feet shall be assessed on a graded scale. The percentage of the rate to be assessed on the entire existing building shall be calculated by the following equation:

(size of existing building - 3,000 square feet) / 2,000 square feet

Examples of Graded Scale Assessment Calculations

(4,000 - 3,000) / 2,000 = 0.50 Existing 4,000 square foot building assessed at 50% of the rate

(3,200 - 3,000) / 2,000 = 0.10 Existing 3,200 square foot building assessed at 10% of the rate

(4,900 - 3,000) / 2,000 = 0.95 Existing 4,900 square foot building assessed at 95% of the rate

F. Alteration permits for tenant improvements, new construction or remodeling where

1. no additional dwelling unit(s) or structure(s) are created;

2. which is not reasonably expected to result in a significant increase in additional trips according to table 4-9 of the City Rate Study, and if

applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report;

3. the use or structure is of a temporary nature and is used less than 180 days in a calendar year;

G. The construction of accessory buildings or structures which will not create additional dwelling units or which do not create additional demands on the City's capital improvements.

H. Any newly permitted and constructed accessory dwelling unit (ADU) conforming to the Title 33 definition of an ADU will receive a waiver of SDC fees if a complete building permit application is submitted for the ADU from April 15, 2010 through July 31, 2016, provided that the new ADU receiving a waiver obtains an occupancy permit no later than June 30, 2017. If an occupancy permit is not obtained by June 30, 2017, an occupancy permit will not be issued until the SDC are paid at the rates in effect at the time the occupancy permit is issued.

I. For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies.

17.15.060 SDC Credits, SDC Credit Transfers and SDC Reimbursements.
(Amended by Ordinance Nos. 172677, 173121, 173437, 174936, 181322, 182652, 184756 and 185195, effective March 14, 2012.)

A. SDC Credits:

1. The City shall grant a credit against the Transportation SDC, which is otherwise assessed for a New Development, for any Qualified Public Improvement(s) constructed or dedicated as part of that New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.

a. To obtain an SDC Credit, the Applicant must specifically request a credit within 180 days after building permit issuance for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Administrator's opinion, the improvement(s) are Qualified Public Improvement, and the Administrator concurs with

the proposed value of the improvement(s), an SDC Credit shall be granted. The value of SDC Credits under Section 17.15.060 A.1. shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of land dedicated, as follows:

(1) For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;

(2) For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought;

(3) For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant;

(4) For all improvements for which credit is sought, only the fraction of over-capacity in the improvement as described in the definition of Qualified Public Improvement is eligible for SDC Credit. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development;

(5) For all improvements for which credit is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the credit based upon the percent of the total SDC charge attributable to the City Rate Study and the Overlay Rate Study.

(6) For all improvements for which credit is sought within the Innovation Quadrant Transportation System Development Charge Overlay, the Administrator shall apportion the credit based upon the percent of the total SDC charge attributable to the City Rate Study and the Innovation Quadrant Overlay Project Report.

b. The Administrator will respond to the Applicant's request in writing within 21 days of when the request is submitted. The Administrator shall provide a written explanation of the decision on the SDC Credit request.

c. If an Applicant disputes the Administrator's decision with regard to an SDC Credit request, including the amount of the credit, the Applicant may seek an alternative SDC Credit calculation under Section 17.15.070. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request.

2. Granting SDC Credits to New Development Prior to Commencing Construction of New Development. When a Qualified Public Improvement is built by a Developer prior to an Applicant applying for Building Permits for the New Development, the City shall grant a credit for any Qualified Public Improvement(s) to be constructed or dedicated as a Condition of Development Approval of that New Development. Credits issued pursuant to Section 17.15.060 A.3. are in lieu of any other SDC Credits that could otherwise be claimed in connection with the Qualified Public Improvement, and are issued pursuant to the following requirements and conditions:

a. The Developer must specifically request a credit prior to the first Application for a Building Permit, but after the issuance of the Public Works Permit for the Qualified Public Improvement;

b. For improvements yet to be constructed, the Developer shall provide the City with an enforceable mechanism to guarantee completion of the Qualified Public Improvement, either in the form of a performance bond or other financial guarantee acceptable to the Administrator;

c. The Developer shall submit written confirmation to the Administrator on the form provided acknowledging:

(1) That SDC credits issued pursuant to this Section are in lieu of any other credits that could be claimed by the Developer or other Applicants on account of the Qualified Public Improvement and

(2) That it is the Developer's obligation to advise subsequent Applicants of the New Development that SDC credits associated with the Qualified Public Improvement have already been issued and that no further credits are available.

3. Where the amount of an SDC Credit approved by the Administrator under this Section exceeds the amount of the Transportation SDC assessed by the City upon a New Development, the excess may be transferred. SDC Credit Transfers shall be issued by the City for a particular dollar value to the Applicant. The Applicant may convey by any means and for any value an SDC Credit Transfer to any other party. The Applicant or any other party to whom the credits are transferred may use the SDC Credit Transfers to satisfy Transportation SDC requirements for any other New Development within the City, with the following exceptions:

a. SDC Credit Transfers approved in connection with New Development outside the North Macadam Urban Renewal District, if applied to SDCs payable on New Development inside the North Macadam Urban Renewal District, may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Such SDC Credit Transfers may not be applied to SDCs payable under the North Macadam Overlay Rate Study.

b. SDC Credit Transfers approved in connection with New Development outside the Innovation Quadrant, if applied to SDCs payable on New Development inside the Innovation Quadrant, may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Such SDC Credit Transfers may not be applied to SDCs payable under the Innovation Quadrant Overlay Project Report.

4. The City shall accept at face value any SDC Credit Transfer presented as full or partial payment for the Transportation SDC due on New Development, except that SDC credits approved in connection with New Development outside the North Macadam Renewal District and applied to New Development inside the North Macadam Urban Renewal District may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study, and SDC credits approved in connection with New Development outside the Innovation Quadrant and applied to New Development inside the Innovation Quadrant may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Neither the City nor any of its employees or officers shall be liable to any party for accepting a SDC Credit Transfer,

approved and issued by the City under this Section, as payment for a Transportation SDC.

5. SDC Credit Transfers are void and of no value if not redeemed with the City for payment of a Transportation SDC within 10 years of the date of issuance.

6. It shall be a violation of this title for any person to counterfeit or forge an SDC Credit Transfer or knowingly attempt to negotiate or redeem any counterfeit or forged SDC Credit Transfer.

7. Notwithstanding Subsections 3. and 4. above, transportation SDC credits approved in connection with New Development subject to the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report may be applied against transportation SDCs that accrue in subsequent phases of the original New Development.

B. SDC Reimbursement.

1. If an Applicant proposes New Development on property on which there is already a use which generates at least 15 percent more vehicle trips than the proposed use, or generates more than 250 more vehicle trips than the proposed use, then the Applicant shall be entitled to an SDC Reimbursement. The SDC Reimbursement shall be in the form of a credit equal to the difference between the SDC Rate of the previous use and that for the proposed use. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Reimbursement and to a particular amount of such a reimbursement.

2. To obtain an SDC Reimbursement, the Applicant must request the Reimbursement within 180 days after building permit issuance for the New Development and document the basis for the request with traffic reports prepared and certified to by a Professional Traffic Engineer.

3. If, in the Administrator's opinion, the Applicant has sufficiently demonstrated that the new use will generate fewer trips than did the previous use, the Administrator shall refund to the Applicant the difference between the Transportation SDC that was paid on the previous use and the Transportation SDC amount that would be assessed for the proposed use. The Administrator shall notify the Applicant in writing of its decision on the SDC Reimbursement request and shall provide a written explanation of the decision. For all improvements for which Reimbursement is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion

the Reimbursement based upon the percent of the total SDC charge attributable to the SDC calculated from the City Rate Study and from the North Macadam Overlay Rate Study. For all improvements for which Reimbursement is sought within the Innovation Quadrant Overlay, the Administrator shall apportion the Reimbursement based upon the percent of the total SDC charge attributable to the SDC calculated from the City Rate Study and from the Innovation Quadrant Overlay Project Report.

4. If an Applicant disputes the Administrator's decision with regard to an SDC Reimbursement decision, including the amount of the Reimbursement, the Applicant may seek an Alternative SDC Reimbursement calculation under Section 17.15.070 in the same manner as for an Alternative SDC Rate request. Any request for an Alternative SDC Reimbursement calculation must be filed with the administrator in writing within 10 calendar days of the written decision on the initial reimbursement request.

17.15.070 Alternative Calculation for SDC Rate, Credit or Exemption.
(Amended by Ordinance Nos. 181322, 182652 and 184756, effective November 1, 2011.)

A. Pursuant to this section, an applicant may request an alternative SDC calculation, alternative SDC credit determination or alternative SDC exemption, but only under the following circumstances:

1. The Applicant believes the number of vehicle trips resulting from the New Development is, or will be, less than the number of trips established in The City Rate Study and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, and for that reason the Applicant's SDC should be lower than that calculated by the City.

2. The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under Section 17.15.060, or the City accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit.

3. The Applicant believes the City improperly rejected a request for an exemption under Section 17.15.050 for which the Applicant believes it is eligible.

B. Alternative SDC Rate Request:

1. If an Applicant believes the number of trips resulting from the New Development is less than the number of trips established in The City Rate

Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, the Applicant must request an alternative SDC rate calculation, under this section, within 180 days after building permit issuance for the New Development. The City shall not entertain such a request filed after 180 days after building permit issuance for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC rate request, the Applicant must provide complete and detailed documentation, including verifiable trip generation data, analyzed and certified to by a Professional Traffic Engineer. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, traffic and growth projections and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed Alternative SDC Rate calculation shall include an explanation by a registered engineer explaining with particularity why the rate established in The City Rate Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, does not accurately reflect the New Development's impact on the City's capital improvements

3. The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found:

a. The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed by a suitable, competent professional in compliance with generally accepted engineering principles and methodologies and consistent with this Section, and

b. The calculation of the proposed Alternative SDC rate was by a generally accepted methodology, and

c. The proposed alternative SDC rate better or more realistically reflects the actual traffic impact of the New Development than the rate set forth in The City Rate Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report.

4. If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide to the Applicant by certified mail, return

receipt requested, a written decision explaining the basis for rejecting the proposed alternative SDC rate.

C. Alternative SDC Credit Request:

1. If an Applicant has requested an SDC Credit pursuant to Section 17.15.060, and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation, under this section. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. The City shall not entertain such a request filed after 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.

2. In support of the Alternative SDC credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is seeking credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis and techniques of analysis as a means of supporting the proposed Alternative SDC credit.

3. The Administrator shall grant the Alternative SDC Credit if, in the Administrator's opinion, the following are found:

a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and

b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct and credible and were gathered and analyzed by an appropriate, competent professional in compliance with generally accepted principles and methodologies, and

c. The proposed alternative SDC Credit is based on realistic, credible valuation or benefit analysis.

4. If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the

Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the Alternative SDC Credit proposal.

D. Alternative SDC Exemption Request:

1. If an Applicant has requested a full or partial exemption under Section 17.15.050, and that request has been denied, the Applicant may request an Alternative SDC Exemption under this section. Any request for an Alternative SDC Exemption calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. The City shall not entertain such a request filed after 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC Exemption, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.15.050 for exemptions.

2. In support of the Alternative SDC Exemption request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions described in Section 17.15.050.

3. The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.15.050.

4. Within 21 days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

17.15.080 Payment.

(Amended by Ordinance Nos. 173437, 181322, 182389 and 183447, effective July 1, 2010.)

A. The Transportation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the Full SDC, the applicant may elect to pay the SDC in installments as provided in ORS chapter 223 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC, and that lien will be given first priority as provided by statute. The Applicant's election to pay the SDC by installments shall be memorialized in an SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set

forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this section, before the City will issue any building permits.

B. Upon written request of the Bureau of Transportation, the City Auditor is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.

C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

D. The City of Portland shall not be responsible for nor have any responsibility to honor or enforce agreements made by private parties regarding the payment or collection of SDC assessments.

17.15.090 Refunds.

(Amended by Ordinance No. 181322, effective January 1, 2008.) Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an Alternative SDC Rate calculation. The City shall refund to the Applicant any SDC revenues not expended within ten (10) years of receipt.

17.15.100. Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance Nos. 181322, 182652 and 184756, effective November 1, 2011.)

A. There is created a dedicated account entitled the "SDC Account." All monies derived from the SDC shall be placed in the SDC Account. Funds in the SDC Account shall be used solely to provide the SDC-CIP listed capacity increasing improvements according to the SDC-CIP as it currently exists or as hereinafter amended, and eligible administrative costs. All monies derived from the Overlay Rate Study shall be placed in a sub-account. The monies in the Overlay sub-account shall only be spent on projects serving the North Macadam urban renewal area. All monies derived from the Innovation Quadrant Overlay Project Report shall be placed in a sub-account. The monies in the Overlay sub-account shall only be spent on projects serving the Innovation Quadrant. In this regard, SDC revenues may be used for purposes which include:

1. project development, design and construction plan preparation;

2. permitting;

3. right-of-way acquisition, including any costs of acquisition or condemnation;

4. construction of new through lanes for vehicular, transit, or bicycle use;

5. construction of turn lanes;

6. construction of bridges;

7. construction of drainage and stormwater treatment facilities in conjunction with new roadway construction;

8. purchase and installation of traffic signs and signals;

9. construction of curbs, medians and shoulders;

10. relocating utilities to accommodate new roadway construction;

11. construction management and inspection;

12. surveying and soils and material testing;

13. construction of Accessways, bicycle facilities, Pedestrian Connections and Walkways;

14. landscaping;

15. bus pullouts, and transit shelters, fixed rail transit systems and appurtenances;

16. demolition that is part of the construction of any of the improvements on this list;

17. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire transportation facilities;

18. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

B. Money on deposit in the SDC Accounts shall not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or

2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or

3. costs associated with acquisition or maintenance of rolling stock.

17.15.110 Challenges and Appeals.

(Amended by Ordinance Nos. 173121and 181322, effective January 1, 2008.)

A. Any person with interest may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be $250.

B. Except where a different time for an Administrator's determination is provided in this Chapter, all determinations of the Administrator shall be in writing and shall be delivered to the Applicant within 21 days of an Application or other Applicant request for an Administrator determination. Delivery of such determination shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Such determination shall be accompanied by a notice of the Applicant's right to appeal and an outline of the procedures therefore.

C. Any Applicant aggrieved by an Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of $250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

D. The City shall withhold all permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or the Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney

17.15.120 City Review of SDC.

(Amended by Ordinance Nos. 181322, 182652 and 184756, effective November 1, 2011.)

A. No later than every two (2) years as measured from initial enactment, the City shall undertake a review to determine the total SDC's assessed and collected by

transportation district and the total SDC's expended and programmed by transportation district and project; to determine that sufficient money will be available to help fund the SDC-CIP identified capacity increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the SDC-CIP should be modified, and to ensure that such facilities will not be overfunded by the SDC receipts.

B. In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary for sufficient funding of the SDC-CIP improvements listed in City Rate Study North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report or to ensure that such SDC-CIP improvements are not overfunded by the SDC, the City Council may propose and adopt appropriately adjusted SDCs.

C. The City Council may from time to time amend or adopt a new City Rate Study by resolution.

D. Beginning January 1, 2009 through December 31, 2012, the City shall undertake an annual review to determine the amount of Transit Oriented Development (TOD) exemptions provided by district.

17.15.130 Time Limit on Expenditure of SDCs.

The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the SDC-CIP list.

17.15.140 Implementing Regulations; Amendments.

(Amended by Ordinance Nos. 171698 and 181322, effective January 1, 2008.) The City Council delegates authority to the Director of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter including the appointment of an SDC program Administrator. All rules pursuant to this delegated authority shall be files with the office of City Auditor and be available for public inspection.

17.15.150 Amendment of SDC-CIP List.

(Amended by Ordinance No. 182652, effective April 8, 2009.) The City may, by resolution, amend its SDC-CIP as set forth in the City Rate Study and Overlay Rate Study, from time to time to add projects the City deems appropriate.

17.15.160 Severability.

(Amended by Ordinance No. 181322, effective January 1, 2008.) 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 17.16

GENERAL PROVISIONS

Sections:

17.16.010 Specifications and Authority to Revise.
17.16.020 Interpretation of Specifications.
17.16.030 Progress Payments.
17.16.040 Interest on Progress Payment and Final Warrants.
17.16.050 Progress Payment not Deemed Final Acceptance.
17.16.060 Division of Warrants.
17.16.065 Purchase of Warrants by the City.
17.16.070 Claims against Contractors.
17.16.080 Statutory Provisions Relating to Labor and Wages.
17.16.090 Bonding City Property.
17.16.100 Facilities in Street Area Affected by Improvement.
17.16.110 Facilities in Street Area Damaged by Contractor.
17.16.120 Engineer's Standards.
17.16.130 Approvals by City Attorney.
17.16.140 Acceptance and Release of Property Interests.

17.16.010 Specifications and Authority to Revise.

(Amended by Ordinance Nos. 149769, 173295 and 184957, effective November 25, 2011.)

A. All work done and materials used for either a local or public improvement whether it be as a district or by permit shall conform to the provisions of this Title and to the current version of the standard construction specifications.

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

17.16.020 Interpretation of Specifications.

(Amended by Ordinance Nos. 149769, 173295 and 184957, effective November 25, 2011.) The decision of the City Engineer as to all performances, materials and technical requirements of standard specifications and plans for a local improvement or public improvement shall be final and conclusive excepting work performed in accordance with Part 01100 of the standard construction specifications for which the Chief Engineer, Portland Water Bureau shall have final and conclusive decision. The interpretation of all

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

17.16.030 Progress Payments.

(Amended by Ordinance Nos. 138075, 140744 and 173295, effective April 28, 1999.)

A. Subject to applicable provisions of the City Charter and in accordance with the specifications adopted for particular work by the Council, progress payments may be made by the City periodically as required by the contract for the improvement work, on the basis of a certificate concerning the same, filed with the Auditor by the Responsible Engineer.

B. The progress payment certificate shall show the amount of work and material applied to the local improvement or public improvement and not included in any prior certificate, the reasonable value of the work and material, the contract price thereof, the amount to be retained pursuant to the contract, and the amount to be paid as a progress payment. Contract provision for the progress payments shall be deemed sufficient without further approval by the Council, except that if the contractor is found to be delinquent, if the payment is the last payment to be made before payment of retainage pursuant to the contract, or if any progress payment covers work which is in addition to or an extra over the basic contract, then a progress payment shall not be made pursuant to the Responsible Engineer's certificate until such certificate has been presented to the Council and approved by the Council, or the Council has separately authorized the extra work.

C. On any contract for a local improvement which does not contain a specific provision for progress payments, a single progress payment shall be made at the time the final estimate of the Responsible Engineer is filed with the City Auditor if such payment is requested by the contractor. The progress payment shall not exceed 95 percent of Council authorized contract costs included in the final estimate. This paragraph shall be applicable to contracts which are completed after the passage of this Ordinance.

17.16.040 Interest on Progress Payment and Final Warrants.

Payment for work done as a local improvement shall be made by warrant drawn on the Local Improvement Assessment Fund for the particular improvement created or to be created when assessments therefor are paid. Any warrant for a progress payment or final warrant drawn against a Local Improvement Assessment Fund, either to be created or already in existence, shall bear interest at the rate of 6 percent per year beginning on the 10th day after the date of the warrant. Total interest on such warrants shall not exceed the total amounts collected as interest from the properties assessed. When sufficient money is collected and is in the Local Improvement Assessment Fund to pay accrued interest on the oldest outstanding warrant and some portion or all of the principal on such

warrant, the interest on the warrant shall cease as of the day when the principal amount or portion thereof is collected, to the extent of the amount collected.

17.16.050 Progress Payment Not Deemed Final Acceptance.

(Amended by Ordinance No. 173295, effective April 28, 1999.) No progress payment shall be deemed a final acceptance or any acceptance of the work or material represented by such progress payment, nor shall the progress payment affect the liability of the contractor or the contractor's surety relating to the public work or local improvement.

17.16.060 Division of Warrants.

When money has been collected and is in a Local Improvement Assessment Fund sufficient to pay all or a portion of the principal as well as the accrued interest on the oldest outstanding warrant, upon presentation of the warrant the Treasurer shall pay the accrued interest and principal amount collected upon the outstanding warrant and issue a new warrant for the unpaid principal balance. The new warrant shall bear interest from the 10th day after the date of the original warrant.

17.16.065 Purchase of Warrants by the City.

(Added by Ordinance No. 138072, amended by Ordinance No. 173295, effective April 28, 1999.) The City of Portland shall purchase local improvement warrants issued for progress payments and final payment to a contractor on a local improvement project under the conditions listed below upon written request from the contractor to the City Finance Officer:

A. Either the official estimate of the Responsible Engineer or the bid of the contractor is less than $50,000,

B. Before the plans and specifications for the project were issued it has been determined by the Finance Officer that funds would be available in the Assessment Collection Fund for this purpose,

C. The plans and specifications for the project will include a provision that such warrants will be purchased by the City from the contractor at the contractor's request,

D. The purchase will be made by the City no earlier than 10 days and no later than 30 days after the issue date,

E. The purchase of final warrants will be at face value without accrued interest. The purchase of progress payment warrants will be at face value discounted by an amount equal to 10 days of interest and without accrued interest.

17.16.070 Claims Against Contractors.

(Amended by Ordinance No. 173295, effective April 28, 1999.) Notwithstanding contractual provisions for payment of progress payment warrants, final payment warrants or payment of retainage, any person given a right by statute to institute an action on the contractor's bond may file a claim with the City Auditor for the labor, material, or payment to State funds for which the contractor is liable in connection with the performance of the contract. In the event such claim is filed and the contractor has money due and owing from the City, the money due and owing shall not be paid to the contractor until 20 days after the filing of the claim. If, prior to the expiration of such 20-day period, the money due and owing to the contractor has been ordered withheld or paid into court by a court of competent jurisdiction, if the claimant withdraws his or her claim, or if the contractor orders all or a portion of the amount due and owing to be paid to the claimant, then the Auditor shall divide the payment or treat the same as required by such order or withdrawal. However, if the only money due and owing to the contractor is the final retainage, then the City shall have first call upon the retained amount for correction of defects in the contract.

17.16.080 Statutory Provisions Relating to Labor and Wages.

All contractors employed by the City shall comply with all statutory requirements concerning hours of labor and prevailing wage rates. All certifications required by statute to be filed with the City shall be so filed.

17.16.090 Bonding City Property.

The Mayor or a Commissioner to whom particular City property has been assigned, which property is assessed for a local improvement, shall have authority to make application for bonding and to sign the application. For such application said Mayor or Commissioner shall be deemed the owner on behalf of the City.

17.16.100 Facilities in Street Area Affected by Improvement.

(Amended by Ordinance No. 173295, effective April 28, 1999.)

A. If a fire hydrant has been installed at established street grade and in a location approved by the City Engineer, and a local improvement or public improvement requires moving such hydrant, the Bureau of Water Works shall upon request of the City Engineer make the necessary change. The cost thereof shall be included in the cost of the improvement unless the Council directs payment from public funds.

B. In all other cases, any facility over, upon or under the street area, required to be moved either for construction or as the result of a local or public improvement shall be changed, moved, removed or relocated, as the City Engineer may direct, at the expense of the owner of the facility. The change includes any trenches and filling thereof or other work necessary for the change. However, this does not relieve the contractor from liability or responsibility under contract specifications.

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

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

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 Statues 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 17.18

GENERAL OBLIGATION IMPROVEMENT WARRANTS

(Added by Ordinance No. 139575, effective March 13, 1975.)

Sections:

17.18.010 General Obligation Improvement Warrants Authorized.
17.18.020 Procedure for Issuance and Delivery.
17.18.030 Application of Proceeds.
17.18.040 Repayment.
17.18.050 Payment or Bonding Mandatory.
17.18.060 Provision in Budget.

17.18.010 General Obligation Improvement Warrants Authorized.

(Amended by Ordinance Nos. 140586, 141599, 146747 and 157298, effective May 2, 1985.) Notwithstanding other provisions of this Code, the Council hereby authorizes the financing of local improvements by the issuance of general obligation improvement warrants in accordance with the procedures provided by State law except as otherwise provided herein. General obligation improvement warrants may be issued when authorized by ordinance in an amount equal to the indebtedness to be incurred by the City in constructing the local improvement including all costs of land acquisition, advertising, engineering and superintendence fees, and any special preliminary services or studies that may be assessed on benefited property, and an amount equal to the amount to be paid by the City to the contractor for the construction of a local improvement, not exceeding the bid price of each contract plus 15 percent for approved change orders. If the local improvement has not yet been bid and a successful bidder accepted, the engineer's estimate for construction cost may be used.

17.18.020 Procedure for Issuance and Delivery.

(Amended by Ordinance Nos. 140586, 141599, 146747 and 173295, April 28, 1999.)

A. From time to time, the Council may, upon recommendation of the City Treasurer and Responsible Official, call for bids on the interest rate for general obligation improvement warrants on the estimated amount of proposed assessments for local improvement districts authorized or to be authorized. Bids shall meet the conditions and requirements provided for in the authorizing ordinance.

B. Upon return of bids the Council may award to the highest and best qualified bidder offering the most advantageous interest rate, the full amount of general obligation improvement warrants to be issued for local improvements specified in the ordinance requesting bids. Provided further, the Council may reject any and all bids.

C. The ordinance authorizing the call for bids shall also authorize the issuance of the general obligation improvement warrants to the successful bidder as determined by the Council, subject to the provisions of this Chapter. Thereafter, the City Treasurer is authorized to deliver to the successful bidder from time to time as the Treasurer deems necessary general obligation improvement warrants in an amount equal to the indebtedness to be incurred by the City in constructing the local improvement including all costs of land acquisition, advertising, engineering and superintendence fees, and any special preliminary services or studies that may be assessed on benefited property, and an amount equal to the amount to be paid by the City to the contractor for the construction of a local improvement, not exceeding the bid price of each contract plus 15 percent for approved change orders. If the local improvement has not yet been bid and a successful bidder accepted, the engineer's estimate for construction cost may be used.

D. General obligation improvement warrants shall be issued in denominations as stated in the ordinance authorizing call for bids; shall be numbered consecutively; shall be dated the first day of the month in which they are delivered to the successful bidder and shall mature within the time provided by State law. The successful bidder shall pay accrued interest from the date of the warrants to the time of delivery.

E. The City Treasurer shall deposit all proceeds from the issuance of said General Obligation Improvement Warrants in the Improvement Warrant Sinking Fund established in Section 5.04.210 of this Code.

17.18.030 Application of Proceeds.

(Amended by Ordinance No. 146747, effective Dec. 4, 1978.) The proceeds from each series of general obligation improvement warrants issued for a local improvement district construction contract shall be retained in the Improvement Warrant Sinking Fund until payment shall be authorized.

17.18.040 Repayment.

Upon completion of any local improvement contract and the spreading of assessments upon the property benefited thereby, all proceeds from the collection of unbonded assessments, the sale of improvement bonds, and the foreclosure of improvement liens for unbonded assessments realized from the local improvement with respect to which such general obligation improvement warrants are issued, shall be transferred from the Local Improvement District Assessment Fund created for the particular improvement and placed in the Improvement Warrant Sinking Fund in an account to be applied to the call and payment of such warrants as rapidly as funds are available as provided by statute.

17.18.050 Payment or Bonding Mandatory.

In the event the owner of any property benefited by the construction of a local improvement which has been financed by the issuance of general obligation improvement warrants shall fail to either pay any assessment upon such property or apply for bonding of such assessment as provided for in Section 17.12.140 of this Code within 60 days of the time the assessment is due and payable, the Treasurer shall immediately cause such property to be sold as provided in Charter Section 9-804 and deposit the proceeds of the sale in the Local Improvement District Assessment Fund created for that particular improvement to be transferred to the appropriate account within the Improvement Warrant Sinking Fund.

17.18.060 Provision in Budget.

The Council shall provide in its budget for the fiscal year in which general obligation improvement warrants will mature such amount for the payment thereof as shall be estimated or determined to be owing thereon and unpaid at the maturity thereof after application of collections made prior to such maturity as provided in this Chapter. Such monies shall be placed in the Improvement Warrant Sinking Fund to repay outstanding warrants as needed.

Chapter 17.19

NORTHWEST TRANSPORTATION FUND

(Added by Ordinance No. 177993,
effective November 21, 2003.)

Sections:

17.19.010 Purpose.
17.19.020 Applicability.
17.19.030 Payment.
17.19.040 Implementing Regulations.
17.19.050 Dedicated Account and Appropriate Use of Account.

17.19.010 Purpose.

The purpose of the Northwest Transportation Fund is to ensure that a source of funding is available to finance the implementation of mitigation measures and the construction of transportation improvements that become necessary when new development causes the use of transportation facilities in the area to intensify.

17.19.020 Applicability.

The Northwest Transportation Fund applies to commercial development in Subdistrict B in the Guild's Lake Industrial Sanctuary Plan District and the area north of NW Pettygrove Street, on sites zoned EX in the Northwest Plan District. For each contribution to the Northwest Transportation Fund, a bonus of one square foot of additional floor area above the 1:1 base floor area ratio (FAR) that may be in non-residential use is earned, up to the maximum total floor area that is allowed on the site. The amount of floor area that is allowed on the site is regulated by Title 33, Planning and Zoning.

17.19.030 Payment.

(Amended by Ordinance Nos. 182389 and 182760, effective June 5, 2009.) Applicants must remit the Northwest Transportation Fund fee prior to the issuance of building permits.

A. The Northwest Transportation Fund fee of $2.90 is based upon a cost per square foot of non-residential development up to the amount of floor area allowed by Title 33, Planning and Zoning. Any appeal of the application of the Northwest Transportation Fund fee is to the Director of Transportation. The Director of Transportation may establish an appeal fee that will cover the full cost of processing the appeal.

B. The Northwest Transportation Fund fee will be increased or decreased on July 1 of each year. The change will occur automatically, and the new dollar amount will be filed with the City Auditor. The change will be based on the 10-year moving average percentage fluctuation of the Oregon Composite Construction Cost Index. Any increase or decrease that is not a multiple of $.05 will be rounded to the nearest multiple of $.05.

C. The Bureau of Transportation is authorized to refund the Northwest Transportation Fund fee, without further Council action, where the non-residential development approved by building permit is not constructed and the building permit is cancelled. There is a charge of $500 for processing a refund request.

17.19.040 Implementing Regulations.

(Amended by Ordinance No. 182389, effective January 2, 2009.) The City Council delegates authority to the Director of the Bureau of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter. All rules relating to this delegated authority shall be filed with the City Auditor and be available for public inspection.

17.19.050 Dedicated Account

All monies derived from the Northwest Transportation Fund shall be placed in the Northwest Transportation Fund Account. Funds in the Northwest Transportation Fund shall be used to provide transportation improvements in the area bounded by NW Pettygrove Street, NW Nicolai Street, the I-405 freeway, and NW 27th Avenue or in the immediate vicinity, as need arises. Funds may be used to address existing transportation deficiencies and the transportation impacts of growth. Funds in the Northwest Transportation Fund may be used for purposes that include:

A. Transportation analysis

B. Design and construction plan preparation

C. Permitting

D. Right-of-way acquisition, including costs of acquisition or condemnation

E. Relocation of public utilities

F. Construction of new lanes for vehicular or transit use

G. Construction of turn lanes

H. Construction of bridges

I. Design, purchase and installation of traffic signs and signals

J. Design and construction of pedestrian or bicycle facilities

K. Design and construction of drainage facilities

L. Design and construction of curbs, curb extensions, and medians

M. Construction management and inspection

N. Surveying and soils and materials testing, including environmental testing

O. Landscaping

P. Transit facilities

Q. Demolition that is part of the construction of any of the improvements

R. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire the transportation facilities.

S. Administrative costs of establishing, maintaining, and administering the fund.

Chapter 17.20

CONTRACTOR PREQUALIFICATION RULE

(Repealed by Ordinance Nos. 174509 and 174904, effective January 1, 2001.)

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

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

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. Not withstanding 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

comply with the conditions of the permit, or for any reason which would have been grounds for denial of the initial permit application.

Chapter 17.24

PERMITS

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Sections:

17.24.000 Purpose and Intent.
17.24.005 Jurisdiction and Management of Public Right-of-Way.
17.24.010 Permits Required.
17.24.012 Financial Guarantee Required.
17.24.013 Insurance and Indemnification.
17.24.014 Permits to Construct and Maintain Structures in the Street Area.
17.24.015 Obligation of Property Owner for Structures in the Street Area.
17.24.016 Permit Revocation.
17.24.017 Temporary Street Closure.
17.24.020 Fees and Charges.
17.24.025 Fees for Public Improvement Permits.
17.24.026 Fees for Review of Land Use Applications.
17.24.030 Application for a Public Improvement Permit to construct a Street or Transportation Facility.
17.24.035 Deposit Required.
17.24.040 Refusal of a Public Improvement Permit.
17.24.050 Contents of Permit.
17.24.055 Assurance of Performance.
17.24.060 Permit Conditions.
17.24.067 Hazardous Substances.
17.24.070 Engineering and Superintendence for Street and Transportation Facility Public Improvements.
17.24.080 Work Done Under Permit.
17.24.085 Original Documents Become the Property of the City.
17.24.090 Certificate by City Engineer.
17.24.100 Street Pavement Preservation.
17.24.105 Regulations Governing Excavations and Disturbance of Pavement on Transit Mall.
17.24.110 Record of Permits.
17.24.120 Removal of Improvement.
17.24.130 Preservation of Cobblestones.

17.24.000 Purpose and Intent.

The purpose and intent of this Chapter is to:

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

B. Conserve the limited physical capacity of those public right-of-way held in trust by the City;

C. Assure that all persons owning or operating facilities within the public right-of-way comply with applicable ordinances, rules and regulations of the City;

D. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens.

17.24.005 Jurisdiction and Management of Public Right-of-Way.

A. The City has jurisdiction and exercises regulatory management over all public right-of-way within the City, as provided under City Charter, ordinances, and Oregon law.

B. The City has jurisdiction and exercises regulatory management over public right-of-way whether the City has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

C. No person may occupy or encroach on a public right-of-way without the permission of the City, as provided under Portland City Code.

D. The exercise of jurisdiction and regulatory management of a public right-of-way by the City is not official acceptance of the right-of-way, and does not obligate the City to maintain or repair any part of the right of way.

E. The City retains the right and privilege to immediately require any person to remove, move or otherwise adjust its facilities located within the public rights-of-way whenever, in the determination of the Director of the Bureau of Transportation, the public need requires it. If the person ordered to remove, move, or adjust the facility does not do so as directed by the Director of the Bureau of Transportation the City may remove, move or otherwise adjust such facilities with its own forces or contract forces and the full cost of such removal, movement or adjustment shall be the responsibility of the person responsible for the facility.

F. The Bureau of Transportation shall be the agency responsible for management of the public right-of-way.

17.24.010 Permits Required.

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

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

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

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

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

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

G. The Director of the Bureau of Transportation may issue permits to the Portland Water Bureau for street openings to facilitate connections to the public water system and to install, repair, and replace water mains, laterals, and necessary appurtenances. The Bureau of Water Works shall obtain permits from the Director of the Bureau of Transportation for use of the street area in accordance with the schedule of fees set forth in Section 17.24.020.

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

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

17.24.012 Financial Guarantee Required.

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

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

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

17.24.013 Insurance and Indemnification.

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

B. Indemnification. As a condition of a permit issued under this Chapter, the applicant shall hold harmless, indemnify and defend the City, its officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the defense thereof, including attorney fees, resulting from or arising out of the activities of the applicant, its officers, employees, agents and contractors under this permit. In addition, in situations which occur prior to dedication of the right of way, the permittee acknowledges and assumes all risk of loss which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements.

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

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

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

1. the Director of the Bureau of Transportation has determined that the permittee is an organization with public responsibilities and is of sufficient

permanence to carry insurance, liability and maintenance responsibilities for the full life of the permit; or

2. the permittee is the owner of a benefited property against which the permit is recorded, and the underlying property owner of the right of way has agreed to issuance of the permit; or

3. as otherwise provided for in Section 17.24.010 and Chapter 17.56.

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

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

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

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

17.24.016 Permit Revocation.

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

Upon revocation the permittee, or any successor permittee, shall at permittee's own cost remove such structure within 90 days after written notice to the permittee by the City of such revocation, unless the Director of the Bureau of Transportation specifies a shorter period, and shall return the street area in which the structure was located to the condition of the street area immediately surrounding it, to the satisfaction of the Director of the Bureau of Transportation. If the permittee does not remove the structure and/or return the street area to a condition satisfactory to the, Director of the Bureau of Transportation, the Director of the Bureau of Transportation may do so, and the permittee shall be personally liable to the City for any and all costs of dismantling the structure and reconstructing the street area. The costs of removal and reconstruction shall become a

lien upon the abutting property until paid by the permittee. The City may sell or otherwise dispose of structures or parts thereof removed from the public right of way under authority of this Section, and the owner of same shall not be entitled to any compensation for said items from the City.

17.24.017 Temporary Street Closure.

(Amended by Ordinance No. 185212, effective March 21, 2012.) The Director of the Bureau of Transportation may close or by permit allow to be closed temporarily any street or portion thereof for the following reasons:

A. To facilitate construction, demolition or installation of facilities on public or private property.

B. To restrict vehicular use of an unimproved street for the protection of the public or to eliminate a neighborhood nuisance.

C. To provide for block parties.

D. To provide for community events alcohol prohibited or community events alcohol allowed.

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

A person will be denied a permit under PCC Section 17.24.017 C. & D. if more than 50 percent of the property owners abutting the street to be closed object to the closure or if another City Bureau objects to the closure based on concerns for neighborhood livability such as noise, disorderly conduct, litter, or public safety.

A person who is denied a permit under PCC Section 17.24.017 C. & D. may appeal the matter to City Council. The applicant shall file with the City Auditor within five days after denial a written notice of appeal. The notice shall identify the decision that is being appealed, and include the appellant's name, address, phone number, signature, and a clear statement of the specific reason(s) for the appeal. Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the hearing, the Council may affirm or modify the decision of the Director of the Bureau of Transportation as the Council may deem necessary.

17.24.020 Fees and Charges.

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

If a larger fee is required elsewhere in this Title for any class of permit, the larger fee shall apply, otherwise the fees and charges listed in the Portland Policy Documents shall

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

17.24.025 Fees for Public Improvement Permits.

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

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

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

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

17.24.026 Fees for Review of Land Use Applications.

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

A. Policy

1. Fees are not intended to exceed the Bureau of Transportation's average cost of processing the type of review requested or average cost of participating in pre-application conferences.

2. Fees shall include direct costs and overhead charges.

3. Fee schedules shall be updated annually and made available in the Portland Policy Documents.

B. Required Fees

1. Each request for a pre-application conference shall be accompanied by the applicable fee.

2. All land use review applications requested must be accompanied by the applicable fee.

C. Concurrent Applications. When more than one review is requested on the same project, the fee for each review will be charged.

D. Appeal Fees. The process and charges for appeals shall be as set forth in Subsection 33.750.030 C. Appeal Fees.

E. Fee Waivers. The Bureau of Transportation will waive its pre-application and review fees in those cases where the Planning Director has granted a fee waiver under the provisions of Section 33.750.050.

F. Refunds. The Bureau of Transportation will refund fees under the following circumstances:

1. Unnecessary Fee. When a fee is accepted by staff for a land use review that is later found to not be required, a full refund will be made.

2. Errors. When an error is made in calculating the fee, the overpayment will be refunded.

3. Full Refunds.

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

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

4. No Refunds.

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

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

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

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

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

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

1. the improvement plans have been approved by the City Engineer,

2. the final plat, is approvable as determined by the Bureau of Development Services,

3. any necessary site permits have been obtained from the Bureau of Development Services,

4. any necessary easements outside the land division have been obtained,

5. the permittee has provided the following:

a. Acknowledgment that the construction is on private property which is to become easement for public improvements or public right of way and to come under public control upon plat and easement recording with the county.

b. Authorization for City personnel to enter upon the particular private property for the purpose of testing, inspection and surveying if required, during the course of construction of the public improvements.

c. Acknowledgment that City inspection personnel may reject or require correction of work not in accordance with the approved plans and standard specifications, which would prevent future acceptance of the improvements.

d. Acknowledgment that all public utilities to be located in public right of way must be installed prior to final acceptance of the public street improvements, or as directed by the Director of the Bureau of Transportation.

e. Acknowledgment that the plat and easements must be recorded with the County prior to final acceptance of the public improvements.

f. Agreement that the permittee will hold the City of Portland harmless against any liability which may occur during construction prior to dedication of the right of way or recording of the easement, and further agreement that the permittee assumes all risk of loss which may arise in the event the City or any other public agency subsequently requires changes in or additions to plans or refuses to approve all or any part of permittee's improvements.

g. Agreement that the permittee shall, at the permittee's own expense, maintain the public improvements for a period of 24 months following issuance of a certificate of completion by the City Engineer, as assurance against defective workmanship or materials employed in such improvement.

h. Acknowledgment that the issuance of this permit in no way waives any requirements by the City or any other public agency which may be associated with the development of the land division.

6. Any other conditions established by the Director of the Bureau of Transportation and or the City Engineer have been met.

17.24.035 Deposit Required.

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

17.24.040 Refusal of a Public Improvement Permit.

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

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

1. Is not suitable in the circumstances,

2. Will not be uniform with existing or proposed street improvements in the immediate vicinity, or

3. Includes movement of earth from one portion of street to another.

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

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

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

17.24.050 Contents of Permit.

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

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

1. A requirement for proof of insurance in a form acceptable to the City Attorney.

2. A requirement that the permittee shall be responsible for a 24-month quality assurance period following issuance of a certificate of completion.

3. If the permit is for a local improvement a requirement for assurance of performance shall be required. If the permit is for a use of the street area the Director of the Bureau of Transportation may require an assurance of performance if he or she determines it is needed to protect the public interest.

4. If the permit is for a local improvement a schedule setting forth when the permitted activity may begin and the date by which the work will be completed.

5. A requirement that all stated fee's and charges or estimated fee's and charges have been paid and that the applicant will pay the balance of fee's

and charges above the estimated cost prior to issuance of a certificate of completion.

17.24.055 Assurance of Performance.

A. Assurance of Performance shall be for a sum approved by the Director of the Bureau of Transportation as sufficient to cover 100 percent of the cost of design, superintendence, and construction of improvements authorized under permit. Such assurance may, at the discretion of the Director of the Bureau of Transportation, be in the form of separate assurances covering individual stages of a staged development or covering the installation of various individual improvements rather than a single assurance of performance covering 100 percent of the cost of all improvements to the entire land division. Deposits for engineering and superintendence as required by Title 17 or by Title 5 are in addition to the filing of such assurances of performance.

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

1. Surety bond executed by a company authorized to transact business in the State of Oregon.

2. Irrevocable letter of credit.

3. Set-aside account

4. Cash deposit.

5. City Council passage of a LID Formation Ordinance for a local improvement district.

6. Other forms as approved by the City Attorney.

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

maintenance or quality assurance period; other forms of assurance of performance shall contain written provisions for a similar guarantee through the maintenance period.

17.24.060 Permit Conditions.

(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

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.

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

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

computation of quantities and conformance with the established grade. If all of the work required is completed and done to the satisfaction of the City Engineer, the City Engineer shall give a certificate therefor to that effect and that the improvement is accepted, if done within the completion date, as hereinabove set forth, and within recorded public right of way and easements. Otherwise, the acceptance may be made by the Council on the certification of conformity to Code provisions and proper grades filed by the City Engineer.

17.24.100 Street Pavement Preservation.

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

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

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

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

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

17.24.105 Regulations Governing Excavations and Disturbance of Pavement on Transit Mall

A. Definitions.

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

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

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

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

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

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

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

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

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

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

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

C. When granting permits to excavate or disturb Transit Mall pavement , the Director of the Bureau of Transportation will impose conditions determined

appropriate to insure the rapid and compete 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 permitee shall be responsible for the full cost of the reconstruction. Full cost includes any City fee's and charges including but not limited to plan review, construction inspection, traffic mitigation, material testing, and all other expenses related to the work incurred by the Portland Bureau of Transportation.

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

17.24.110 Record of Permits.

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

17.24.120 Removal of Improvement.

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

17.24.130 Preservation of Cobblestones.

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

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

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

D. A permittee shall preserve for delivery to the City quantities of 150 or more cobblestones displaced by excavations of City streets. A report of the number and

location of the cobblestones shall be sent to the Bureau of Parks, Operations Division, and permittee shall deliver the cobblestones to a site as directed by the Bureau of Parks. The Commissioner of the Bureau of Parks hereby is delegated authority to issue additional regulations providing for the preservation of cobblestones excavated from City street areas.

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

Chapter 17.25

SIDEWALK CAFES

(Chapter added by Ordinance No. 150637,
effective October 23, 1980.)

Sections:

17.25.010 Permit Required.
17.25.020 Definitions.
17.25.030 Application Fee and Permit Fee.
17.25.040 Permit Application.
17.25.050 Permit Requirements.
17.25.060 Location Rules and Review.
17.25.070 Liability and Insurance.
17.25.080 Forms and Conditions of Permit.
17.25.090 Denial, Revocation, or Suspension of Permit.
17.25.100 Appeal.

17.25.010 Permit Required.

(Amended by Ordinance No. 182870, effective June 3, 2009.) Operating a Sidewalk Cafe on City sidewalks is unlawful without a permit. No person shall conduct a business as herein defined without first obtaining a permit from the Bureau of Transportation and paying the fee therefor to the City of Portland. It shall be unlawful for any person to operate a sidewalk cafe on any sidewalk within the City of Portland except as provided by this Chapter.

17.25.020 Definitions.

(Amended by Ordinance Nos. 177028, 182870 and 184957, effective November 25, 2011.)

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

B. Sidewalk. Sidewalk means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians.

C. Commercial zone. Commercial zone means abutting property which is zoned C, Commercial, or E, Employment pursuant to Title 33, Planning and Zoning of this

Code or any other zone which may be created as a successor zone to such existing commercial zones.

D. Transit Mall. Transit Mall means the entire length of 5th and 6th Avenues bounded by I-405 on the south and NW Irving on the north.

E. Clear Pedestrian Zone. The Clear Pedestrian Zone is the area reserved for travel. No café operations are allowed in this area and the area must meet City standards and be free of hazards as described in the Sidewalk Maintenance Program Policy & Operating Guidelines (Portland Policy Document TRN-1.11).

F. Area of Operation: Area of Operation means the area of Sidewalk established by the City Engineer and demarcated on the sidewalk according to the specifications of the City Engineer within which the business is allowed to Operate a Sidewalk Café.

G. Responsible Party: Responsible Party means an individual who works on-site at the business and is responsible for overseeing the Operation of the Sidewalk Café, such as the restaurant manager or other person with similar responsibility.

H. Permittee: Permittee means the individual who applied for the sidewalk café permit and to whom the permit is issued. The Permittee bears ultimate responsibility for the operation of the Sidewalk Café.

I. Storage of Materials: Storage of Materials means any arrangement of furniture and materials that precludes operating a sidewalk café.

17.25.030 Application Fee and Permit Fee.

(Amended by Ordinance Nos. 177028 and 182870, effective June 3, 2009.) Fees for operating a sidewalk café are established by the City Engineer. Fees are assessed as prescribed in Section 17.24.010.

Each application for a sidewalk café permit shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee shall be collected prior to issuance of the permit. Permits renewed prior to April 1st do not require an application fee.

17.25.040 Permit Application.

(Amended by Ordinance No. 182870, effective June 3, 2009.) Application for a permit to operate a sidewalk cafe shall be made at the office of the City Engineer in a form deemed appropriate by the City Engineer. Such application shall include, but not be limited to, the following information:

A. Name and address of the applicant.

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

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

permit or in connection therewith. Such insurance shall provide coverage of not less than $1,000,000 (one million dollars). Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of Portland, its officers and employees, the property owner, 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 City of Portland Bureau of Transportation, 1120 SW Fifth Avenue, Room 825.

17.25.080 Form and Conditions of Permit.

(Amended by Ordinance Nos. 182870 and 184957, effective November 25, 2011.) The permit issued shall be in a form deemed suitable by the City Engineer. In addition to naming the name of the business and other information deemed appropriate by the City Engineer, the permit shall contain the following conditions:

A. Each permit issued shall terminate December 31st of the year in which issued.

B. The permit issued shall be personal to the Permittee only and is not transferable in any manner.

C. The permit may be suspended by the City Engineer when an ordinance providing for a "community event" shall so provide.

D. The permit is specifically limited to the approved Area of Operation.

E. The Responsible Party shall use positive action to assure that its use of the sidewalk in no way interferes with or embarrasses sidewalk users or limits their free and unobstructed passage.

F. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition. Trash containers may be provided for use by the cafe patrons.

G. The Permit shall be posted in a conspicuous place near the main entrance visible from the sidewalk at all times.

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

I. Responsible Party shall notify the Bureau of Transportation of any changes to the contact information provided in the City /Responsible Party Agreement.

J. Outdoor cooking shall be prohibited.

17.25.090 Denial, Revocation or Suspension of Permit.

(Amended by Ordinance No. 182870, effective June 3, 2009.)

A. The City Engineer may deny, revoke, or suspend the permit for any sidewalk cafe authorized in the City of Portland if it is found:

1. That the provisions of this Chapter have been violated.

2. The Permittee does not have insurance which is correct and effective in the minimum amount prescribed in Section 17.25.070.

B. Upon denial or revocation, the City Engineer shall give notice of such action to the Responsible Party and Permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the Responsible Party. Any denial or revocation may be appealed to the City Engineer by filing within 10 days.

17.25.100 Appeal.

(Replaced by Ordinance No. 182870, effective June 3, 2009.) Any Applicant aggrieved by an Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of $250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

Chapter 17.26

SIDEWALK VENDORS

(Replaced by Ordinance No. 154042,
effective Jan. 1, 1983.)

Sections:

17.26.010 Conducting a Business on City Sidewalks Unlawful without Permit.
17.26.020 Definitions.
17.26.030 Item for Sale.
17.26.040 Permit Fee.
17.26.050 Application for Permit.
17.26.060 Location Selection.
17.26.070 Location Review.
17.26.080 Payment for Written Consent is Unlawful.
17.26.090 Design Review.
17.26.100 Fire Marshal Inspection.
17.26.110 Application Time Limit.
17.26.120 Form and Condition of Permit.
17.26.125 Renewal of Permits.
17.26.130 Restrictions.
17.26.140 Special Event Designation.
17.26.150 Denial, Suspension or Revocation of Permit.
17.26.160 Appeal.
17.26.170 Penalty for Violation.
17.26.180 Violation a Nuisance, Summary Abatement.

17.26.010 Conducting a Business on City Sidewalks Unlawful without Permit.

No person shall conduct business as herein defined on any City sidewalk without first obtaining a permit from the Office of the City Engineer and paying the required fee. It shall be unlawful for any person to sell any goods or services on any sidewalk within the City of Portland except as provided by this Chapter.

17.26.020 Definitions.

(Amended by Ordinance Nos. 164492 and 177028, effective December 14, 2002.)

A. "Conduct business." Conduct business means the act of selling or attempting to sell services, or edible or nonedible items for immediate delivery.

B. **"Sidewalk."** Sidewalk means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

C. **"Commercial zone."** Commercial zone means abutting property which is zoned C, Commercial, or E, Employment, pursuant to Title 33, Planning and Zoning, of this Code or any other zone which may be created as a successor zone to such existing commercial zones.

D. **"Permit operating area."** Permit operating area means the sidewalk from the midpoint of one block face to the midpoint of an adjacent block face.

E. **"Special events."** Special events mean an event specifically approved by an individual ordinance or permit granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding 10 days to a community based organization.

17.26.030 Item for Sale.

(Amended by Ordinance No. 167130, effective Nov. 24, 1993.) The City Engineer shall maintain a list of items and services which are either approved or prohibited for sale from sidewalk vending carts. Any item or service not on the list may be considered for approval based on the following criteria:

A. All items or services to be sold must:

1. Be vended from a regulation size vending cart;

2. Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;

3. Involve a short transaction period to complete the sale or render the service;

4. Not cause undue noise or offensive odors;

5. Be easily carried by pedestrians.

Requests to have an item or service considered for approval shall be submitted in writing to the City Engineer who shall determine whether the item or service conforms to the above criteria. If the item or service conforms to the above criteria, it shall be listed as approved for sale by sidewalk vendors. If the item or service does not conform, it shall be listed as prohibited for sale by sidewalk vendors. The decision of the City Engineer if adverse to the party making the request, may be appealed to the Council.

17.26.040 Permit Fee.

(Amended by Ordinance No. 182760, effective June 5, 2009.) Each application for a permit to conduct business on a sidewalk shall be accompanied by an application fee. The application fee is nonrefundable and additional to the permit fee. The permit fee shall be collected prior to issuance of the permit. The permit fee between September 1st and December 31st shall be 30% of the yearly permit fee. Permits renewed prior to expiration do not require an application fee.

17.26.050 Application for Permit.

(Amended by Ordinance Nos. 165594 and 182760, effective June 5, 2009.) Application for a permit to conduct business on a sidewalk shall be made at the office of the City Engineer on a form deemed appropriate by the City Engineer. Such application shall include but not be limited to the following information:

A. Name and address of the applicant;

B. The expiration date of applicant's City business license;

C. Type of items sold or services rendered. Individual applications shall be accepted for one type of product or service only.

D. A valid copy of all necessary permits required by State or local health authorities;

E. 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 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 coverage of not less than $1,000,000 (one million dollars) per occurrence. 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, 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 of the City of Portland.

F. Means to be used in conducting business including but not limited to a description of any vending cart, to be used for transport or to display approved items or services.

G. A separate application shall be required for each vending cart to be used for transportation or display;

H. The proposed location for conducting business and the written consent of the property owner(s) adjacent to the permit operating area, along with a signed statement that permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. This consent and hold harmless statement must be submitted on a form deemed appropriate by the City Engineer. No application shall apply to more than one location. No application will be accepted for a permit operating area within which a current permit has been issued or an application is pending. Valid 1982 permits which allowed two carts within a permit operating area may apply for renewal provided they have not lapsed or been revoked.

I. No food vendor application will be accepted for a permit operating area where a restaurant or fruit and vegetable market, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. No application will be accepted for a flower vendor for a permit operating area where a flower shop, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. The above requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant, fruit and vegetable market or flower shop. The consent must be submitted on a form deemed appropriate by the City Engineer.

This provision is not an exception to the location and distance prohibitions included in Section 16.70.550 of the Code of the City of Portland, and no application shall be accepted for a location which would be in violation of that Section.

17.26.060 Location Selection.

A. Permit operating areas which have not been issued a current permit shall be available only upon receipt of the written consent of the property owners adjacent to the permit operating area.

B. No vendor or vending business may obtain permits for adjacent permit operating areas on the same block. Valid 1982 permits are exempt from this restriction provided they have not lapsed or been revoked.

C. The City Engineer may establish an additional permit operating area on a block face which exceeds 300 feet in length.

17.26.070 Location Review.

Upon receipt of an application for a permit the City Engineer shall review the proposed permit operating area to determine if the said area is suitable for sidewalk vending. In making this determination, the City Engineer shall consider the following criteria:

A. The permit operating area must be within a commercial zone.

B. The use of the permit operating area for sidewalk vending must be compatible with the public interest in use of the sidewalk areas as public right-of-way. In making such determination the City Engineer shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as, the presence of bus stops, truck loading zone, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

The City Engineer shall inform the applicant whether the proposed permit operating area is suitable or unsuitable. In the event the applicant is dissatisfied with the City Engineer's decision regarding a certain application, he may appeal the decision to the Commissioner In Charge. The decision of the Commissioner, if adverse to the applicant or any notified party may be appealed to the City Council.

17.26.080 Payment for Written Consent is Unlawful.

No person or corporation shall either pay or accept payment for written consent required for the issuance or continued operation of a sidewalk vending permit.

17.26.090 Design Review.

(Amended by Ordinance Nos. 176955, 177028 and 182760, effective June 5, 2009.)

A. The applicant for a sidewalk vendor permit shall submit detailed scale drawings of the cart to be used, material specifications, and an isometric drawing in color of at least two views showing all four sides of the vending cart and any logos, printing or signs which will be incorporated and utilized in the color scheme. The City Engineer shall submit the isometric drawings of the vending device to the Bureau of Development Services for approval prior to issuing a permit. Vending carts shall be measured by the City Engineer prior to the issuance of a permit or the renewal of a sidewalk vendor's permit to ensure compliance with Section 17.26.090 A of this Chapter.

B. The Bureau of Development Services shall furnish the City Engineer standards required by the Portland Design Commission to be incorporated in the sidewalk vendors application packet.

17.26.100 Fire Marshal Inspection.

(Amended by Ordinance No. 182760, effective June 5, 2009.) Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any vending cart to assure the conformance of any cooking or heating apparatus with the provisions of the City Fire Code.

17.26.110 Application Time Limit.

(Amended by Ordinance No. 182760, effective June 5, 2009.) The applicant must complete all reviews, inspections and present all required documents to the City Engineer within 60 days from date of location approval. Failure to meet this requirement shall result in cancellation of the application and forfeiture of the application fee. The City Engineer may extend this time limit, upon written request and a finding of reasonable need.

17.26.120 Form and Condition of Permit.

The permit issued shall be in a form deemed suitable by the City Engineer. In addition to naming the permittee and other information deemed appropriate by the City Engineer, the permit shall contain the following conditions:

A. Each permit will expire at midnight, December 31st of the year issued;

B. The permit issued shall be personal only and not transferable in any manner;

C. The permit is valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a new letter of consent accompanied by an additional application fee;

D. The permit is valid for one cart only;

E. The location within the permit operating area may be changed, either temporarily or permanently, by written notice of the City Engineer;

F. The permit is subject to the further restrictions of this Chapter;

G. The permit as it applies to a given permit operating area may be suspended by the Council for a period up to 10 days when an ordinance providing for a "community event" shall so provide.

17.26.125 Renewal of Permits.

Application for renewal of permits shall be received from November 1st through December 31st. Application shall be on a form deemed suitable to the City Engineer, accompanied by a permit fee. Applications received after December 31st shall be processed as new applications. The City Engineer shall review each application to determine that:

A. Any required consent has not been withdrawn;

B. The applicant has a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E;

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

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.

C. All temporary locations shall be on side streets adjacent to the parade or event.

D. Temporary locations are valid only for the date and hours specified by the City Engineer.

E. All other conditions of this Chapter, except as herein stated, shall remain in effect.

17.26.150 Denial, Suspension or Revocation of Permit.

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

A. The City Engineer may revoke or suspend the permit, or deny either the issuance or renewal thereof, of any person to conduct business on the sidewalks of the City of Portland based on the following findings:

1. that such person has violated or failed to meet any of the provisions of this Chapter;

2. that the cart operation has become detrimental to surrounding businesses and/or the public, due to either appearance or condition of the cart.

3. any required permit has been suspended, revoked or canceled; or

4. the permittee does not have a currently effective insurance policy in the minimum amount provided in Section 17.26.050 E.

B. Upon denial, suspension or revocation, the City Engineer shall give notice of such action to the permit holder or applicant, as the case may be, in writing stating the action the City Engineer has taken and the reasons therefore. If the action of the City Engineer is a revocation based on Subsections A.3. and 4. of this Section, the action shall be effective upon giving such notice to the permittee, otherwise such notice shall contain the further provision that it shall become final and effective within 10 days. Any revocation effective immediately may also be appealed to the Council by such filing within 10 days. Any revocation, suspension or denial may be appealed to the City Council by filing a written notice of appeal with the City Auditor within 10 days of receipt of notification.

17.26.160 Appeal.

The Auditor shall place the appeal on the Council calendar at the first convenient opportunity therefor and shall notify the City Engineer thereof. At the hearing upon appeal, the Council shall hear all witnesses including the City Engineer or his representative who shall state the grounds for this action, and the applicant or person whose permit has been revoked or suspended may supply testimony in writing by witnesses or otherwise and may question witnesses on his own behalf or on behalf of the

City. The Council shall hear and determine the appeal and the decision of the Council shall be final and effective immediately.

17.26.170 Penalty for Violation.

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment for a period not exceeding 6 months, or by both such fine and imprisonment. In the event that any provisions of this Chapter is violated by a firm or corporation, the officer or officers, or the person or persons responsible for the violation shall be subject to the penalty herein provided.

17.26.180 Violation a Nuisance, Summary Abatement.

(Amended by Ordinance No. 182760, effective June 5, 2009.) The placement of any vending cart on any sidewalk in violation of the provisions of this Chapter is declared to be a public nuisance. The City Engineer may cause the removal of any vending cart found on a sidewalk in violation of this Chapter and is authorized to store such vending cart until the owner thereof shall redeem it by paying the removal and storage charges therefore to be established by the Commissioner In Charge.

Chapter 17.27

STRUCTURAL DRIVEWAYS

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Sections:

17.27.200 Structural Driveway Defined.
17.27.205 Structural Driveways in Public Streets.
17.27.210 Permit Application.
17.27.220 Engineer's Review.
17.27.230 Design Standards.
17.27.240 Permit.
17.27.250 Revocation of Permit.
17.27.260 Removal of Structural Driveways.
17.27.270 Fees.
17.27.280 Inspection of Construction Required.

17.27.200 Structural Driveway Defined.

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

17.27.205 Structural Driveways in Public Streets.

The Director of the Bureau of Transportation may grant a revocable permit to an abutting property owner for the construction and maintenance of a structural driveway within a public street if in the Director of the Bureau of Transportation's judgment there is no other available means of obtaining vehicular access to a structure on abutting private property.

17.27.210 Permit Application.

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

17.27.220 Engineer's Review.

A. The City Engineer will review the application to determine compliance with design standards, possible conflicts with public facilities, and compatibility with existing or future street plans. If in the course of the review the City Engineer

determines that modifications to the proposed plan are necessary, the applicant shall make the requested modifications and resubmit the plan to the City Engineer with all required corrections.

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

17.27.230 Design Standards.

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

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

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

17.27.240 Permit.

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

B. The abutting property owner shall be liable to any person who is injured or otherwise suffers damage by reason of the property owners use of the street area. Furthermore, said abutting property owner(s) shall be liable to the City of

Portland for any judgment or expense incurred or paid by the City by reason of the existence of a structural driveway in the street area.

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

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

17.27.250 Revocation of Permit.

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

1. Upon determination of a public need for the area;

2. If the structural driveway is in conflict with any public improvement plan;

3. If the permittee fails to maintain the structure to the City Engineer's satisfaction;

4. If the permittee allows a dangerous condition, as determined by the City Engineer, to continue for more than twenty days after being given notice to correct the condition; or

5. Upon failure to comply with any condition of the permit.

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

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

17.27.260 Removal of Structural Driveways.

Upon revocation of the permit, the permittee or any successor permittee, shall at permittee's own cost remove such structure within 30 days after written notice to the permittee by the City of such revocation, unless the City Council specifies a shorter period, and shall return the street area in which the structure was located to the condition

of the street area immediately surrounding it, to the satisfaction of the Director of the Bureau of Transportation. If the permittee does not remove the structure and/or return the street area to a condition satisfactory to the Director of the Bureau of Transportation, the Director of the Bureau of Transportation may do so, and the permittee shall be personally liable to the City for any and all costs of dismantling the structure and reconstructing the street area. The costs of removal and reconstruction shall become a lien upon the abutting property until paid by the permittee.

17.27.270 Fees.

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

17.27.280 Inspection of Construction Required.

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

Chapter 17.28

SIDEWALKS, CURBS AND DRIVEWAYS

(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.
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17.28.035 Curb and Intersection Corner Ramps.
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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

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.

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

order by the Council in the event of a remonstrance, the City shall construct the same as soon thereafter as such work can be conveniently scheduled. The cost for the City to have the repairs made shall be assessed upon the property.

17.28.060 Location, Size and Materials of Sidewalks and Curbs.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) The Director of the Bureau of Transportation shall determine the distance between the improved sidewalk and the property line, which, in residential areas shall generally be 2 feet unless a different distance is specified. The width of the improved sidewalks, the grade thereof, materials for construction or reconstruction, and the location and size of curbs, shall be designated by the City Engineer. The class and kind of any fill materials and requirement thereof shall be designated by the City Engineer. Based on a finding of necessity, the Director of the Bureau of Transportation may permit installation of a temporary sidewalk for a specified period, and the City Engineer shall designate specifications for the temporary improvement.

17.28.065 Bicycle Parking.

(Added by Ordinance No. 177028; amended by Ordinance Nos. 178173, 182389, 182760 and 184957, effective November 25, 2011.) Bicycle parking in the right-of-way adjacent to multifamily, commercial, institutional, employment, or industrial land uses helps to achieve the City's goal of making the bicycle an integral part of daily life in Portland. Bicycle parking in the right-of-way provides convenient, accessible, and clearly visible parking in areas where buildings are generally built to the sidewalk.

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

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

C. Bicycle Parking Fund. An owner of a building without surface parking, or without parking or open areas within 50 feet of the main entrance may choose to pay a fee to the Bureau of Transportation Bicycle Parking Fund in lieu of short-term bicycle parking required by Table 266-6 in Title 33, Planning and Zoning. The Bureau of Transportation will use the collected fees to install bicycle parking and associated improvements in the right-of-way.

1. Authority. The City Council delegates authority to the Director of the Bureau of Transportation to adopt administrative rules and procedures necessary to implement provisions of this section. All rules pursuant to this authority shall be filed with the Office of City Auditor and be available for public inspection.

2. Calculation of required fund contributions. Applicants must contribute the cost to purchase, install and maintain bicycle parking and associated improvements. The cost to purchase, install, and maintain bicycle parking will be adjusted annually as determined by the Director of the Bureau of Transportation.

3. Payment. The Bicycle Parking Fund fee is due to be paid upon issuance of a building permit. The Director of the Bureau of Transportation is authorized to refund the Bicycle Parking Fund fee where the development approved by building permit is not constructed and the building permit is cancelled.

4. Width of Sidewalk Corridor. The sidewalk corridor where bicycle parking is to be installed must meet or exceed the width recommended in the Pedestrian Design Guide for installation of bicycle parking. In no case may bicycle parking, installed through the Bicycle Parking Fund be placed in a sidewalk corridor of less than 10 feet in width.

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

(Amended by Ordinance Nos. 183348 and 184957, effective November 25, 2011.) After a sidewalk has been improved or constructed, either alone or in combination with a curb, the owner of land abutting the street area in which the sidewalk has been constructed shall be responsible for maintaining such sidewalk and curb in good repair. If the City Engineer finds that any such sidewalk or curb needs repair, he or she shall post a notice on the adjacent property headed "Notice to Repair Sidewalk" (or curb) which shall in legible characters direct the owner, agent, or occupant of the property immediately to repair the sidewalk or curb, or both in a good and substantial manner in accordance with the plans, specification and regulations of the City. The City Engineer shall send by mail a notice to repair the sidewalk or curb, or both, to the owner, if known, of such property, or to the agent (if known) of the owner, directed to the post office address of the owner or agent when known, or if the post office address is unknown, the notice shall be directed to the owner or agent at the address where the notice was posted. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of the property, or mistake in address shall not invalidate said notice, but in such case the posted notice shall be sufficient.

17.28.080 Permit for Sidewalk and Curb Repairs.

(Amended by Ordinance Nos. 183348 and 186083, effective July 12, 2013.) After notice to repair defective sidewalk or curb, or both, has been posted, the owner, agent or occupant shall make the repairs within 60 calendar days from the date of posting. Any person desiring to repair a defective sidewalk, curb or both, either before or after notice to repair has been posted, shall first obtain a permit.

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

17.28.090 Repair by City of Portland.

(Amended by Ordinance Nos. 183348 and 186083, effective July 12, 2013.) If the owner, agent or occupant of any lot, part thereof or parcel of land which has been posted with notice to repair a sidewalk or curb, or both, shall fail, neglect or refuse to make repairs within the period of 60 calendar days after posting, the City Engineer may as soon as the work can be conveniently scheduled, make the repairs, and the cost shall be determined and assessment made as provided in this Chapter.

17.28.100 Driveways Defined.

(Amended by Ordinance No. 184957, effective November 25, 2011.) As used in this Chapter, the following terms shall have the meaning as set forth below.

A. **"Driveway"** means a paved way for vehicular traffic extending from the roadway to the property line across a sidewalk, whether or not such sidewalk is improved, for the purpose of providing access to parking or maneuvering space on abutting property.

B. **"Residential driveway"** means a driveway serving a one or two family residence.

C. **"Commercial driveway"** means a driveway serving any property except a one or two family residence.

17.28.110 Driveways - Permits and Conditions.

(Amended by Ordinance Nos. 177028, 179845, 182760, 184957 and 186083, effective July 12, 2013.) Upon appropriate application and payment or fees, as provided in Chapter 17.24, the Director of the Bureau of Transportation may issue a permit to construct a driveway in the street area subject to the following conditions:

A. All driveways shall be constructed according to plans, specifications, and any special conditions fixed by the City Engineer.

B. Location. No portion of a driveway, excluding ramps if required, shall be located closer than 25 feet from the corner of a lot where two streets intersect.

C. Width of driveways. A permit to construct a driveway in the street area is subject to the following width provisions:

1. Residential driveway:

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

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

2. Commercial driveway:

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

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

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

3. Driveways shall be measured lengthwise with the sidewalk on the property line side, and such measurement shall not include the width of ramps extending to the regular sidewalk grade. Ramps, if required, do not

constitute part of required minimum or allowed maximum width. Determination of the need or appropriateness of ramps shall be within the sole discretion of the City Engineer.

4. Any driveway at variance with these width limitations shall not be permitted unless the Director of the Bureau of Transportation specifically approves or requires the same. Any applicant requesting a driveway at variance with these standards shall provide such information as the Director of the Bureau of Transportation and the City Traffic Engineer may require in support of the application. The Director of the Bureau of Transportation may establish conditions deemed necessary to insure the safe and orderly flow of pedestrian and vehicular traffic and the decision of the Director of the Bureau of Transportation as to the widths and location of driveways shall be final and conclusive.

5. The Director of the Bureau of Transportation may require joint or shared use of a driveway by two properties in separate ownership. The Director of the Bureau of Transportation may establish conditions regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of pedestrians, bicycles, and vehicular traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated stormwater management, reduce conflicts with pedestrians and bicycles and enhance the pedestrian environment.

D. The Director of the Bureau of Transportation may refer any driveway permit application to the City Traffic Engineer and/or the Oregon Department of Transportation as appropriate, for a review of the location and width. The City Traffic Engineer shall recommend such conditions and limitations regarding the location and operation of driveways as are found necessary to insure the safe and orderly flow of pedestrian, bicycles and vehicular traffic and preserve on-street parking.

E. The Director of the Bureau of Transportation may require any applicant for a driveway permit to provide evidence that the proposed driveway will access legal parking and maneuvering space on property as set forth in Title 33, Planning and Zoning regulations. The Director of the Bureau of Transportation may refuse to issue a permit if the applicant cannot show evidence that on-property parking and maneuvering space is in compliance with Title 33, Planning and Zoning regulations.

1. If the Director of the Bureau of Transportation finds that a property owner is permitting access where a properly constructed driveway does not exist, the Director of the Bureau of Transportation may post notice and require

termination of access or construction of a driveway in accordance with the requirements of this Chapter.

F. Revocability of driveway permits.

1. The Director of the Bureau of Transportation may revoke any driveway permit or require the modification of any driveway if:

a. The area occupied by the driveway is needed for the public convenience;

b. Continued operation of the driveway interferes with the safe and orderly flow of pedestrians, bicycles or vehicular traffic; or

c. The abutting owner has failed to comply with all specifications and conditions of the permit; or

d. The driveway does not access legal parking and maneuvering space on abutting property.

2. The Council may revoke any driveway permit if they deem such action will be in the public interest.

G. Enforcement powers. Within 60 calendar days of written notice from the Director of the Bureau of Transportation to close or modify a driveway, the abutting property owner shall obtain any required permits and make the required corrections. If the abutting owner fails to make the required corrections within 60 calendar days, the City may perform the required work at the expense of the abutting property owner and the cost shall be determined and assessment made as provided in this Chapter.

17.28.120 After Construction Driveways Deemed Part of Sidewalk.

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

17.28.130 Reconstruction of Existing Driveways.

(Amended by Ordinance No. 186716, effective August 15, 2014.) If the City Engineer finds that any driveway does not conform to the requirements of this Chapter and should be reconstructed for the protection or convenience of pedestrians or vehicles using the street area, the City Engineer may post notice and require the reconstruction or removal

of the driveway. If the abutting property owner fails to make the required corrections within 60 days the City may perform the required work at the expense of the abutting property owner, and the cost shall be determined and assessment made as provided in this Chapter.

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

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

A. Special structural, excavation and fill jobs and jobs in areas of traffic and pedestrian congestion shall be charged at the discretion of the City Engineer. Determination of whether a job is of special type shall be made by the City Engineer.

B. Cost basis charges for work may be made at the discretion of the City Engineer if the actual cost can be conveniently and accurately determined.

17.28.150 Billing for Charges.

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

A. When work is completed by the City on any construction, reconstruction or repair of a sidewalk, curb or driveway, the amount of the charge shall be determined by the City Engineer or responsible bureau and reported to the City Auditor. The City Auditor shall calculate a proposed assessment that includes the amount of the improvement charge plus 10% of the charge to defray the administrative costs of notice, assessment and recording.

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

1. The legal description and site address of the property;

2. The amount of the proposed assessment against the property;

3. The manner and deadline for filing a written remonstrance to the proposed assessment amount;

4. The date, time and location of the public hearing for Council consideration of the proposed assessment; and

5. Contact information for sidewalk repair.

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

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

17.28.160 Assessment of Charges.

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

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

1. Determine whether the improvement work was required by Code and whether the conditions required the improvements, whether the required improvements are consistent with Code and City specifications, and whether the improvement charges are calculated as provided by Code; and

2. Determine the extent of actions or adjustments which are necessary to bring the proposed assessment into compliance with Code and program standards; and

3. Mail a statement of findings to the remonstrating property owner, and file a copy with the City Auditor. The findings shall include a statement that the property owner may appeal the determination to the Council.

B. The Council shall conduct a public hearing on the proposed assessments, however is should be held no sooner than 20 days following the date of the proposed assessment notice as provided in this Chapter. The Council shall consider and make its determinations based on the requirements of this Code and the City specifications maintained by the City Engineer. The Council shall affirm or modify the proposed assessments based on its findings. The Council's decisions

shall be implemented by ordinance which sets forth its findings and decision. The decision of the Council may be appealed to the court by writ of review.

C. Following adoption of the assessing ordinance, the City Auditor shall mail a final assessment notice to the owners of the affected property as shown on the last available assessment roll in the office of the county assessor. The notice shall be deemed given upon deposit in the U.S. mail. The notice shall contain the following information:

1. The legal description and site address of the property;

2. The final assessment amount;

3. A statement that the final assessment is recorded in the Docket of City Liens, and is a lien which has first priority against the property as provided by state statute;

4. The manner and deadline for paying the final assessment in full or requesting to pay the final assessment in installments if authorized by Code;

5. The interest, penalties and collections costs which shall be charged if the final assessment is not paid or an installment payment contract is not filed before the deadline contained in the notice; and

6. A statement that delinquent final assessments may be collected by foreclosure and property sale.

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

1. The amount of the unpaid final assessments docketed, with accrued interest at the rate determined by the City Council, or in the case of an installment contract, at the rate set forth in the contract; and

2. Any additional interest, penalties, or billing charges imposed by the City with respect to any installments of final assessments which are not paid when due.

E. All unpaid final assessments together with accrued and unpaid interest and penalties and billing charges are a lien on each lot or parcel of land respectively, in favor of the City and the lien shall have first priority over all other liens and encumbrances whatsoever.

F. The City shall enforce assessment liens and installment payment contracts under this Chapter in the same manner as other City assessments as set forth in Title 5.

Chapter 17.30

STREET IMPROVEMENTS

(Repealed by Ordinance No. 177124,
effective January 10, 2003.)

Chapter 17.32

PUBLIC SEWER AND DRAINAGE SYSTEM PERMITS, CONNECTIONS AND MAINTENANCE

(Chapter replaced by Ordinance No. 186659; effective July 18, 2014.)

Sections:

17.32.010 Purpose.
17.32.020 Definitions.
17.32.030 Permit Required.
17.32.040 Types of Permits and Reviews
17.32.050 Work Allowed and Required Under Permit.
17.32.060 Permit-Related Records.
17.32.070 Maintenance of Sewer and Drainage Systems.
17.32.080 Use and Access Permits
17.32.090 Connection Permits.
17.32.100 Public Works Permits
17.32.110 Permit and Review Fees.
17.32.120 Reimbursements for Work.
17.32.130 Inspections.
17.32.140 Enforcement.
17.32.150 Compliance Cases and Appeals.
17.32.160 Conflict.
17.32.170 Severability.

17.32.010 Purpose.

This Chapter regulates access and connection to, and the use, construction, modification, maintenance, repair or removal of, components of the City sewer, storm sewer and drainage systems and their easements. This Chapter operates in conjunction with Chapter 17.38 to regulate the collection, conveyance and disposal of sanitary and stormwater discharges from public and private properties. This Chapter is administered by the Director of the Bureau of Environmental Services (BES).

17.32.020 Definitions.

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. **"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. **"City 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. "City storm sewer and drainage systems" 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

D. **"Combined Sewer"** means a sewer designed to convey both sanitary sewage and stormwater.

E. **"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.

F. **"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.

G. **"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.

H. **"Conveyance"** means the transport of sanitary sewage, stormwater, wastewater or other discharge from one point to another point.

I. **"Director"** means the Director of the Bureau of Environmental Services or the Director's designee.

J. **"Discharge Point"** means the connection point or destination for a discharge leaving a site.

K. **"Drainage"** means the flow of waters across public and private properties.

L. **"Drainage Improvements"** means management facilities or modifications to storm sewers, drainage systems or drainage patterns to address safety issues, increase capacity, or improve water flows or quality.

M. **"Green Street"** means a vegetated stormwater management facility located within the planting strip or other portion of public or private rights-of-way.

N. **"Groundwater Discharge"** means a discharge pumped or directed from the ground. Groundwater-related discharges include but not limited to, subsurface water from site remediation and investigations, well development, Brownfield development, discharges from footing and foundation drains, and subsurface water associated with construction or property management dewatering activities.

O. **"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.

P. **"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.

Q. **"Route of Conveyance"** means the BES-approved path of conveyance from a property or private stormwater system to the approved discharge point.

R. **"Route of Service"** means the BES-approved path of connection of a building sewer or private stormwater conveyance to a City sewer, storm sewer or drainage system.

S. **"Stormwater"** means water that originates as precipitation on a particular site, basin, or watershed. Also referred to as runoff.

T. **"Wye"** means a connection joint or pipe between a public sewer and more than one sewer service lateral, building sewer, or common private sewer system.

17.32.030 Permit Required.

A. It is unlawful for any person to take the following actions without first obtaining authorization from the Director and approval from the BES Chief Engineer via permit, contract or other legal agreement and paying applicable fees:

1. Access any City sewer or drainage system component;

2. Encroach into a City sewer easement;

3. Dig up, break into, excavate, disturb, dig under, or undermine any public street or City sewer easement for the purpose of laying or working upon any City or private sewer or drainage improvement of any kind;

4. Make connection with, obstruct or interfere with the City sewer, storm sewer or drainage system;

5. Cut, break, connect, modify or remove any component of the City sewer or drainage system;

6. Direct water, from any source, on private property to run onto any City sidewalk, street, easement or right of way.

B. In the case of the need for emergency repair to a City sewer, storm sewer or drainage system component to protect public health, safety or the environment, the person making the repair may commence work without first obtaining a permit provided that:

1. The person immediately notifies the City of the need for repair;

2. Any emergency repair work is limited to what is needed to remove the emergency situation as deemed necessary by BES Chief Engineer;

3. The work is performed in compliance with standard City construction specifications, the Sewer and Drainage Facilities Design Manual, and the Stormwater Management Manual; and

4. The person making repairs files an application for a BES permit within three business days of the emergency and complies with all permit conditions and pays all applicable fees.

C. Repair of nonconforming sewers located in public right-of-way or a City easement is prohibited unless the BES Chief Engineer determines that it is in the public interest to allow the nonconforming system to remain.

D. The Portland Bureau of Transportation may require a permit and approval from the BES Chief Engineer to construct and attach drainage improvements to the City sewer, storm sewer and drainage system as needed to provide stormwater drainage for public streets.

E. Except as otherwise allowed by the Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of sanitary sewage into a City storm sewer and drainage system.

F. Except as otherwise allowed by the Director, it is unlawful for any person to allow or cause a connection that will result in the discharge of storm drainage, collected groundwater or other water to a public sewer designated by the BES Chief Engineer to be used solely for sanitary sewage.

17.32.040 Types of Permits and Reviews.

The Director has established a permitting system to review, approve and enforce proposals to access, use, connect, modify, repair or remove components of the City sewer, storm sewer and drainage system. BES administrative rules identify application submittal requirements, permit issuance decision-making, inspection, bond, and warranty requirements. In general, the Director authorizes the following permits, reviews, and authorizations:

A. Access and system use permits for limited use of sewer systems for monitoring, sampling or other non-structural activity;

B. Encroachment reviews for City sewer and drainage systems and their easements, including both temporary staging and permanent structural modifications;

C. Connection permits for new laterals or permanent routing of any discharges to the City sewer, storm sewer or drainage system;

D. Public works permits for construction, modification, repair or removal of a component to the City sewer, storm sewer or drainage system; and

E. Pre-issuance reviews on projects in the vicinity of City sewer, storm sewer and drainage systems that are required to obtain other City permits or authorizations to conduct work.

F. Authorization the activities described in Section 17.32.030 through a binding contract or other legally binding agreement or a BES discharge permit or authorization.

G. The BES Chief Engineer may refuse to issue a permit if:

1. In the judgment of the BES Chief Engineer, the proposed work or activity is not suitable in the circumstances or will not be consistent with or protective of existing or proposed public sewer, storm sewer or drainage improvements or activities in the immediate vicinity;

2. The application is not modified as the BES Chief Engineer deems necessary;

3. The City Engineer has not issued a street opening permit if the public sewer or drainage improvement or proposed work or activity is occurring or will occur 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; or

5. The requirements of any previously issued permit have not been met including the payment of delinquent fees or City charges.

17.32.050 Work Allowed and Required Under Permit.

A. Upon receipt of the completed application, proper and satisfactory bond, and payment of all applicable fees, the BES 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 BES Chief Engineer.

B. All persons doing work under a permit must comply with all the conditions of the permit as specified by the Director and perform work to the standards set by the BES Chief Engineer. The BES Chief Engineer may establish standards for particular types or classes of work to be performed by persons permitted to work on BES facilities in streets, easements, or other public property. Such conditions may include:

1. Full payment of permit fees.

2. Specifics about the kind of work and the time in which the same is to be completed.

3. Such other requirements as the BES Chief Engineer finds appropriate in the public interest.

C. The BES Chief Engineer may refuse to accept work that is not in full compliance with the plans, specifications, permit or other contract documents. If the work is refused, it will not be accepted unless it is brought into full compliance.

1. All work must comply with the following design and construction standards;

a. Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual.

b. Stormwater, groundwater discharge or other waters discharged to the City's storm sewer and drainage system must comply with the Stormwater Management Manual and Chapter 17.38.

D. All components of the City sewer, storm sewer and drainage system must be located within public rights-of-way, including easements. The width of public rights-of-way must be adequate to allow reasonable access for inspection, maintenance, repair and replacement, using standard construction methods. The minimum width for City sewer, storm sewer or drainage easements located outside of the public right-of-way is 15 feet. The Director may require enlargement of an easement as necessary to address topographic conditions, the design of the improvement, or other relevant factors**.**

E. It is unlawful for any person who obtains a permit to fail or refuse to immediately remove all surplus sand, earth, rubbish, and other material from public streets and other public areas. All public streets, easements, and other public properties must be repaired or replaced to a condition satisfactory to the City Engineer, or the BES chief Engineer for sewer, storm sewer and drainage easements, at the permittee's own expense for the period of two years from the date of the completion of the work, as acknowledged in writing by the City.

17.32.060 Permit-Related Records.

BES will keep a record of permitted activities and improvements made under permit, permits issued under this Chapter, permit conditions, and the dates of acceptance of improvements. Any plans, specifications, survey notes, or other original documents as required by the BES Chief Engineer that were prepared for or produced during permit application or the design of, construction of, or connection to of a public sewer or drainage improvement, become the property of the City and must be delivered to the BES Chief Engineer before acceptance of the improvement by the BES Chief Engineer. The permittee must provide copies of any sampling data or other information obtained as a result of accessing the City sewer, storm sewer and drainage system.

17.32.070 Maintenance of Sewer and Drainage Systems.

Sewer system maintenance obligations including inspection, rehabilitation, routine cleaning and repair are based on ownership of the system:

A. Private Systems. A sewer or drainage system that was not constructed by the City, built under a public works permit, or otherwise accepted pursuant to Subsections 17.32.070 B.1. or B.2. must be maintained by the parties served by the system, regardless of whether the system is located 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 must obtain a permit pursuant to Chapter 17.24 before beginning work within the right-of-way.

2. For a sewer or drainage system located in a public right-of-way that is under either private or unclear ownership, the BES Chief Engineer may grant or deny a permit to repair, upgrade, or replace the system as provided by Section 17.32.030. Such a system may only remain in the public right-of-way at the discretion of the BES Chief Engineer.

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. A sewer or drainage system constructed by the City, constructed under a public works permit, or accepted by the City pursuant to Subsections 17.32.070 B.1. or B.3. will be maintained by the City as explained below in this Section unless otherwise specified by written agreement with the City.

1. Limits of City Maintenance Responsibility. The City maintains City sewer and drainage improvements that are located in City rights-of-way and that are described as part of the City public sewer, storm sewer and drainage system. However, the City only maintains sewer laterals as follows:

a. For a City-paved street with curbs, the City will maintain a lateral from the sewer main to the street-side curb face nearest the property being served. If there is more than one curb, as with stormwater facilities, the City will maintain to the street-side curb face closest to the property line. Otherwise, the City will maintain only the wye or tee connection for sewer laterals.

b. For a City-paved street without curbs, the City will maintain a lateral from the sewer main to the edge of the City paved street area.

c. Under Subsections 17.32.070 B.1.a. and b., when the sewer main is located in the right-of-way between the property line and the street-side curb face closest to the property line, the City will maintain only the wye or tee connection for the lateral.

d. For an unpaved street, the City will maintain those portions of any sewer lateral within an area of right-of-way up to 28 feet wide and centered on the centerline of the City right-of-way, as determined by the City, as follows:

(1) When the sewer main is within the 28-foot maintenance area, the City will maintain the lateral to the limit of the maintenance area;

(2) When the sewer main is outside the 28-foot maintenance area and at least a portion of the sewer service lateral lies within the maintenance area, the City will maintain the lateral to the limit of the maintenance area; and

(3) When the sewer main is outside the 28-foot maintenance area and no portion of the sewer service lateral lies within the maintenance area, the City will maintain only the wye or tee connection for the lateral.

e. In City sewer, storm sewer and drainage system easements, the City will maintain public sewer mains and only the wye or tee connections for sewer service laterals.

f. Those portions of a sewer service lateral not addressed by Subsections 17.32.070 B.1. a. through d. are the responsibility of the property owner receiving service through the lateral.

2. Acceptance of Systems with Unclear Ownership. The Chief Engineer may agree to conduct future maintenance of a sewer or drainage system located in a public right-of-way or City utility easement where the ownership is unclear if, in the judgment of the BES Chief Engineer, the public will benefit thereby and:

a. The system conveys only domestic sanitary or stormwater flows from residential property; or

b. The system has been specifically modified through City permit or by the City to accept stormwater flows from City rights-of-way or other City-controlled property.

c. Acceptance of a system under this Section 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.

3. Acceptance of Systems from Other Agencies., utilities or Individuals. The BES Chief Engineer may accept sewer, storm sewer and drainage systems from other public or private utilities, public agencies, non-profit groups or other persons as the BES Chief Engineer deems appropriate. This acceptance my include full ownership or only assumption of maintenance responsibilities.

4. Adoption of Private Systems in the Public Right-of-Way. The BES Chief Engineer may agree to take ownership of a private sewer system or drainage improvement in the City right-of-way as provided by administrative rule. At the discretion of the BES Chief Engineer, a system meeting the following general criteria may be adopted:

a. All the properties connected to the system are participating in the City's Nonconforming Sewer Conversion Program pursuant to Chapter 17.33;

b. The sewer system conveys only domestic sanitary or stormwater flows from residential property;

c. The owners of all properties connected to the system provide the City with detailed information about the design, location, and condition of the system, and the properties connected to it as specified by administrative rule;

d. The owners of all the properties connected to the system relinquish all claims to the system; and

e. All branch fees assessed by the City are paid or financed.

5. A system accepted under Subsection 17.32.070 B.1. or adopted under Subsection 17.32.070 B.2. will be added to the City maintenance roles as of the date of acknowledgment by the BES Chief Engineer.

6. 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 will 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.

7. Any private piping, collection or conveyance structures needed to provide service to or used to transport discharges to the City's sewer, storm sewer or drainage system, will be the sole responsibility of the property owners(s) served by such systems. System installation, maintenance and repair will occur at the expense of the applicable property owner(s).

8. Volunteer Maintenance. Property owners adjacent to City green street or other drainage improvement are not responsible for routine maintenance of the facilities but may voluntarily perform the following tasks with BES approval:

a. Trash and debris removal (not including sediment);

b. Weed removal;

c. Leaf pick up and removal;

d. Removal of dead plantings;

e. Watering of vegetation; and

f. Clearing inlets and outlets to allow stormwater to freely enter and exit the facility

C. Nuisance Abatement.

1. The BES Chief Engineer may determine that a sewer or drainage improvement located in a public right-of-way that is under either private or unclear ownership constitutes a public nuisance if it:

a. Impairs or threatens to impair the operation, maintenance or installation of any street or public utility;

b. Is so deteriorated that its flows infiltrate or threaten to infiltrate any public utility or impact or threaten to impact the support structures of any street or public utilities;

c. Violates City operation, maintenance or construction standards or rules, or

d. Otherwise creates a public health or safety hazard**.**

2. Summary abatement of the nuisance is authorized when the BES 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 BES Chief Engineer will notify all owners identified in this Chapter or Chapter 25.09 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 does not affect the sufficiency of the notice.

4. The City will bill each property that the City determines caused or contributed to the nuisance to recover the costs of abatement. If the amount due is not paid in full within 30 days of the date of notice, the City may place a lien against the property.

See Figure 13 for an example visual representation of ownership situations.

17.32.080 Use and Access Permits.

A. Access to or use of the City sewer, storm sewer and drainage system requires the written approval of the Director and payment of all applicable fees. Public agencies or BES discharge permittees may be eligible for multi-use or programmatic permits. Structural modification of the City sewer, storm sewer and drainage systems requires a public works permit under Section 17.32.100.

B. Drainage System Modifications. Modifications of any public or private stormwater management systems require the written approval of the Director**.**

17.32.090 Connection Permits.

Connecting to a City sewer, storm sewer or drainage system, requires the written permission of the Director and payment of all applicable fees. A permit application must include the purpose of the work; the name of the street or proposed or existing easement or right of way where work is proposed; the location of potentially affected components of the City sewer, storm sewer and drainage system; the location of the building or lot to be connected by the work (if any); and the location and the area to be drained.

A. If the application is for a permit is to connect a commercial or industrial occupancy it must also include:

1. A description of the business, a plat of the property, plans and specifications for any special installations;

2. A description of the character and quantity of waters and wastes to be discharged through the connection;

3. A proposed schedule for work; and

4. Any further information required by the BES Chief Engineer.

B. If the application is for a permit to connect properties outside the City limits, connection approval will be at the sole discretion of the BES Chief Engineer. No connection from property outside the City limits or within a neighboring jurisdiction will be permitted which, in the opinion of the BES Chief Engineer, may overload or otherwise compromise any component of the City sewer, storm sewer or drainage system. Connection of properties outside the City's boundaries is subject to the requirements and limitations of the City's adopted urban services policy.

1. Application for a permit to connect must 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 must be paid and any permits that may be required for street or highway opening and use must be obtained.

2. Any person connecting a property outside the City limits to the City sewer, storm sewer or drainage system must enter into a maintenance agreement as may be required by the Director.

3. Flows from outside the City limits may be required to meet the standards in the stormwater management Manual or the Sewer Drainage Facilities Design Manual, as determined by the BES Chief Engineer based on the needs of the City sewer, storm sewer and drainage system.

C. All permitted work must meet the following general sewer and drainage system construction standards, if applicable:

1. All discharges must be routed to the City sewer, storm sewer and drainage system by gravity service when possible, unless otherwise approved by the BES Chief Engineer.

2. If separate City storm and sanitary sewers are available, separate connection must be made to the City's sewer, storm sewer and drainage system from the private property:

a. Sanitary sewage from private property must be separately conveyed to the property line and connected through individual laterals for discharge to the City separate sanitary or combined sewer.

b. Drainage from private property, whether from the roof of a building, the surface of a structure, footings of a structure or any other surface, groundwater discharge or other drainage must be conveyed separately from sanitary sewage to City systems via an approvable route of conveyance or discharge point to the City storm sewer and drainage system;

c. If separate storm and sanitary sewers are not available, but a combined sewer is available, the BES Chief Engineer may require or allow**:**

(1) Separate connections for the separate sewage lines from the property to the City's combined sewer;

(2) Joining of the separate lines at the curb line closest to the property line or edge of an easement for single discharge into the City's combined sewer; or

(3) Onsite infiltration of surface, groundwater discharge or other drainage to minimize or eliminate the need for offsite discharge.

3. All discharges must be connected via an approved route of service or route of conveyance to a discharge point approved by the BES Chief Engineer.

D. The BES Chief Engineer may require that a property owner modify or abandon an existing sewer connection when a new or renovated public sewer becomes available. The BES Chief Engineer may dictate a new route of service or route of conveyance and new approved connection point to the City sewer, storm sewer and drainage system for sewage, wastewater or other drainage discharges. A new connection may be:

1. Required or provided by BES as part of an infrastructure replacement project that addresses issues such as but not limited to pipe stability,

capacity expansion, water quality improvement, or reduction of inflow or infiltration into existing laterals.

2. Require for a property with a private sewer, storm sewer and drainage system located in City right-of-way to obtain a City encroachment permit;

3. Required in order to remove an illegal connection that is subject to an enforcement action.

17.32.100 Public Works Permits.

A. The construction, modification, repair or removal of a component of the City sewer, storm sewer and drainage system requires a public works permit prior to beginning work. All applicants must complete a public works application form that provides:

1. A description of the proposed work and the applicable public improvements.

2. Locations and names of proposed streets where work is proposed, location of any off-street improvements, and the name of a new proposed plat development, if any.

3. Any other information the BES chief Engineer deems appropriate.

A permit will be issued by the City after the sewer or drainage improvement plans and/or description of proposed work have been approved by the BES Chief Engineer.

B. Prior to City issuance of a permit, the applicant must provide a performance bond, cash, or other financial guarantee in an amount not to exceed the City's estimate for construction and engineering.

C. The BES Chief Engineer will only issue a permit for the construction of a public sewer or drainage improvement in advance of plat recording of a subdivision or planned unit development after:

1. The sewer or drainage improvement plans have been approved;

2. The final plat, with or without required signatures affixed, has been submitted to the Bureau Development Services;

3. The Bureau of Development Services has given written assurances that subdivision or planned unit development approval conditions have been or will be met;

4. All applicable easements outside the subdivision or planned unit development have been obtained, and

5. The applicant has complied with Section 17.32.050 of this Code.

6. The issuance of a BES public works 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.

D. Persons wishing to utilize City design services must include payment of a deposit in an amount to be determined by the Director with the permit application. All deposits must be made before any City design work begins. BES will retain the deposit as compensation for the preparation of design and plans or for review efforts if:

1. A permit application or issued public works 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.

3. If a public works 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 will be applied to the cost of the permit fee for such improvements.

E. In addition to the standard permit conditions of Section 17.32.050, public works permits must meet the following standard conditions:

1. The resulting public improvement must be located in a public easement or public right of way and will come under City control upon plat and easement recording with the County.

2. The permittee shall hold the City of Portland harmless in writing against any liability that may arise from or in connection with the permitted activity prior to any dedication of rights-of-way or recording of easements. The permittee must assume 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.

3. The permittee must, at the permittee's own expense, maintain any permitted City sewer or drainage improvement for a period of 24 months following the issuance of a letter of permit completion by the City Engineer. The warranty period ensures that workmanship and materials are not defective and that the improvement is operating properly. BES may extend the warranty period for any repairs, alterations or rehabilitations that needed to occur during the original warranty period.

4. Any drainage improvements made on private property and private or shared private/public facility systems allowed in a City right-of-way or easement will remain the maintenance responsibility of the private property owner as a condition of the approved permit and associated maintenance agreement unless accepted as a City maintenance responsibility by the Director.

5. All plats and easements must be recorded with the County prior to final acceptance of the public sewer or drainage improvements.

F. Acceptance of Improvements.

1. Notice of Construction Completion. During the course of construction, and before issuance of a letter of permit completion from the BES Chief Engineer or a certificate of completion from the Bureau of Transportation for joint projects, the BES Chief Engineer will inspect the sewer or drainage improvement and to determine if the improvements were constructed in compliance with the plans, specifications and conditions of the permit and if they meet City standards for quality of workmanship. The BES Chief Engineer will check the improvement for alignment and conformance with the established grade. Once this acceptance is garnered, the maintenance and warranty period will commence.

2. Certificate of Completion of the Maintenance and Warranty Period. All of the work required during the warranty period must be completed to the satisfaction of the Chief Engineer prior to completion certificate issuance and issuance of a warranty completion certificate accepting the improvement.

3. In the event the BES Chief Engineer does not accept a public sewer or drainage improvement within one year after completion of the warranty period, the permittee must 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.

17.32.110 Permit and Review Fees.

Permit and review fees are described on the BES annual rate ordinance required by Chapter 17.36. BES may withhold issuance of any permit until applicable connection charges and review fees are paid in full. Multi-tiered permit fees may be applicable.

A. Access, Use and Encroachment Reviews and Permits. Sewer access, use and encroachment permit review fees will recover the cost of BES reviews including all applicable overhead and inspection charges.

B. Connection Permits. Connection permit review fees will recover the cost of all City reviews including all applicable overhead charges for review and inspection. Overhead rates are set annually by the Director.

C. Public Works Permits. Public works permit review fees 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. Public works permit and review fees recover the costs for all projects completing work whether performed by contract in the name of the City, by private contract between a permittee and a contractor, or directly by the permittee.

D. All fees must be paid prior to receiving a permit and commencing work.

E. BES may withhold a portion of permit fees and charges to cover costs associated with opening and reviewing a permit. Canceled connection, use, encroachment, proximity review and standard public works permits are generally not eligible for refund unless meeting the criteria set by the Director. Complex public works permits are eligible for refund of the applicable portions of the public works permit deposit not already spent on City design or review services.

17.32.120 Reimbursements for Work.

A. Backflow Device Reimbursement. A property owner may submit an application for partial reimbursement of the cost for installation of a sewer backflow device on a combined sewer line. To be eligible, the building or structure must be connected to the City combined sewer system and be in an area vulnerable to sewer backups, as determined by the BES Chief Engineer. All backflow devices installed pursuant to this Section will be owned by the building owner, who must assume the costs of maintenance, repair and replacement.

1. Backflow devices must be installed per Title 25, Plumbing Regulations.

2. As of July 1, 1996, if the reimbursement is approved, the building owner must pay the first $100 of the cost of such installation, and the City pays

the next $1,500 of such costs. The building owner must pay any amount in excess of $1,600. Payment to the property owner of the City's share of the expense is made upon the Bureau of Development Services' final inspection and the owner's submittal of the plumber's billing for the work.

3. City participation in the cost of installation does not guarantee or in any manner warrant any backflow device, nor does the City give any warranty that the device will prevent future flooding. The City does not assume any responsibility for damages incurred as a result of flooding subsequent to installation of any backflow device. The owner may look to a warranty or guarantee from the manufacturer of the backflow device or the installation contractor.

B. Sewer and Drainage System Extensions.

1. Payment for Extension. When a City sewer or drainage improvement is extended past or to properties, all property owners benefiting from the extension will be assessed a share of the anticipated cost of the extension based on either Local Improvement Districts as described in Chapter 17.08; or other charges as specified in Section 17.36.040.

2. Reimbursement for Extension. The property owner or developer paying for a sewer or drainage system extension that will serve unserved properties will be reimbursed by the City for part of the cost of such extension:

a. The amount of reimbursement for a sewer extension is limited to the amount of revenue that would be received from the line and branch charge established in Section 17.36.040 if, upon acceptance of the sewer by the City, all properties adjacent to and capable of receiving gravity service were to connect. The reimbursement will not exceed the cost of an equal length of 8-inch-diameter sewer line, as determined by the BES Chief Engineer.

b. The amount of reimbursement for a drainage improvement extension is limited to the cost to manage the drainage basin area drained to new facilities that will be accepted by the City for long term maintenance.

c. The reimbursement for any project will not exceed 50 percent of the amount budgeted by the City in any fiscal year, unless otherwise approved by the Director. The total reimbursement in any fiscal year must not exceed the amount budgeted for that

purpose in that year; however funds may be committed against the next year's budgeted amount.

17.32.130 Inspections.

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection surveying, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.32.140 Enforcement.

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit for actions in Section 17.32.030, including failure to supply correct application materials;

2. Failure to comply with the conditions of a permit;

3. Failure to comply with the conditions of or prohibited access to a public sewer or drainage easement;

4. Failure to comply with a written directive or timeline of the Director made under authority of this Chapter;

5. Damage to or modification of a public sewer or drainage improvement; and

6. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, withholding of final inspection, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

F. Nothing in this Chapter is intended 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.

17.32.150 Compliance Cases and Appeals.

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff. After the

requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

1. Reviews and appeals of the following may be requested:

a. The determination of a violation of this Chapter or associated rules.

b. The type and level of enforcement action taken by BES.

c. The type and amount of penalty imposed by BES.

d. Compliance due dates.

e. A requirement to obtain a permit.

f. A denial of a permit or a final inspection.

g. Required remediation actions.

2. Reviews and appeals may not be requested for:

a. The amount of cost recovery assessment against the person by BES.

b. A requirement to meet a technical standard.

c. Refusal to accept an improvement into the public maintenance system.

d. Refusal to grant permits for modification of a public improvement.

e. Specification of the required route of service to connect with a public improvement.

f. Other issues identified in individual program-specific administrative rules.

3. Appeals to the City Code Hearings Officer. Appellants must pay a filing fee and a deposit in the amount of the Code Hearing fee as part of their appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will void and return the check to the appellant via certified mail.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.32.160 Conflict.

This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.32.170 Severability.

If any provision, paragraph, word, or Section of this Chapter or associated administrative rules 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 17.33

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 Required 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 Actions before the City Code Hearings Officer.
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

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:

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 then 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

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.

(Amended by Ordinance No. 185694, effective November 23, 2012.)

A. Applicability. A property using a nonconforming sewer must convert to a conforming sewer connection when a public sewer is available. The new connection must be made along a route of service approved by the Director. In addition, when a public sewer is extended into an area, the City may request that property owners in the area who are not required to connect nevertheless, volunteer to participate in the Nonconforming Sewer Conversion Program regardless of their distance from the new sewer.

B. Exemption. The Director may exempt properties with nonconforming sewer connections from the requirement to convert to a conforming sewer connection if:

1. The Director determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety or the environment; 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. The Director may choose to delay enforcement of this deadline for a property where a connection would be unreasonably technically difficult, a public sewer is not immediately available or substantial financial hardship would result.

17.33.060 Required Sanitary Sewer Conversion Charges.

(Amended by Ordinance No. 185694, effective November 23, 2012.) Property owners must pay the sanitary sewer conversion charges as required by Chapter 17.36 at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection. A property owner can elect to pay or finance conversion charges and connection costs as required in Chapter 17.36 and associated program administrative rules. Council adopts sanitary sewer conversion charges annually as part of the BES rate ordinance.

A. Timing. Property owners must pay or finance sewer conversion charges prior to the issuance of permits required by Chapter 17.32. BES will assess sewer conversion charges based on the sewer conversion rates in effect at the time of connection.

B. Relationship to Special Assessments for Local Improvement Districts. BES will 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 will be limited to the amount of the sanitary sewer conversion charges as established in the annual BES rate ordinance.

2. In the event that a benefited property owner paid or financed branch fees or sanitary sewer conversion charges prior to the preparation of the estimated special assessment roll as provided in this Section, BES will establish a zero assessment for the benefited property.

3. BES will 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 will 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 will 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 will 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 will determine the most administratively efficient method to refund or credit the apportioned difference allocated to the property. Any refund or credit will 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.

(Amended by Ordinance No. 185694, effective November 23, 2012.) A deferral of the requirement to connect to a public sewer may not exceed five years, although it may be renewed based on a re-evaluation of eligibility, and it does not transfer with the sale or transfer of property. The property remains subject to the requirements of this Chapter following termination of the connection deferral. Eligibility criteria vary for the Mandatory Sewer Connection and the Nonconforming Sewer Conversion programs. Deferral requests will be considered on the following, as described more fully in program administrative rules:

A. Mandatory Connection. Deferrals may be granted for the following:

1. Applicant-based criteria. These include financial, medical or other hardship criteria related to the property owner; and

2. Property-related criteria. These 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 according to criteria established in administrative rule.

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 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.

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 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 Actions before the City Code Hearings Officer.
(Amended by Ordinance No. 185694, effective November 23, 2012.)

A. Code Compliance Hearings. Property owner not in compliance with the Mandatory Sewer Connection and the Nonconforming Sewer Conversion Program requirements will be summoned to code compliance hearing before the City Code Hearings Officer per Title 22.

B. Property Owner-Initiated Appeals. Property owners may initiate appeals to the Code Hearings Officer on the following issues:

1. Conversion Charges. The property owner may appeal the amount of the charges and the methodology used to determine them.

2. 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

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; amended by Ordinance Nos. 185870 and 186403, effective February 1, 2014.) 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.

G. **"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.

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

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. **"Slugload"** means any discharge that is non-routine or episodic and that has a reasonable potential to cause interference, pass-through, or violation of applicable local, state or federal regulations, including City local limits or conditions of the City's NPDES permit. Slugloads include but are not limited to accidental spills and non-customary batch discharges.

U. **"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;

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;

14. Contain petroleum oil, non-biodegradeable 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 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),

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.

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 he 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.

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 and 186192, effective September 6, 2013.)

A. Inspection.

1. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement. The City may install on the discharger's property such devices

as are necessary to conduct sampling, inspection, compliance monitoring and metering operations.

2. Entry Protocols.

a. The BES representative will present a City photo identification card at the time of entry;

b. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

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 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 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.

(Replaced by Ordinance Nos. 186192, effective September 6, 2013.)

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a permit when required for discharge, including failure to supply correct application materials;

2. Failure to comply with the conditions of a permit;

a. Exceedances of discharge limits. Each pollutant discharge that exceeds a discharge limit is considered a separate violation;

3. Discharges prohibited by PCC Section 17.34.030;

4. Failure to comply with a written directive or timeline of the Director made under authority of this Chapter;

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15); and

6. Where a discharge causes interference or pass through, the discharger may have a valid affirmative defense if it is demonstrated that:

a. The discharger did not know or have reason to know that the 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 discharge:

(1) Occurred prior to and during the pass through or interference; and

(2) Did not change substantially in nature or constituents from prior discharge activity which was regularly in compliance with the requirements of this Chapter and associated rules.

B. Significant Non-compliance. Any significant industrial user or any other discharger who violates the criteria described in 3, 4, 5 or 9 of this Subsection will be considered to be in significant non-compliance with this Chapter for one or more of the following:

1. Chronic violations of wastewater discharge limits. Chronic violations occur when at least 66 percent of all of 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 taken for the same pollutant parameter during a 6-month period equal or exceed the product of the pretreatment standard multiplied by the applicable TRC (TRC = 1.4 for 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 danger to human health, welfare or to the environment.

5. Any discharge that requires the Director to use emergency authority to halt or prevent discharge.

6. Failure to meet, within 90 days after the schedule date, 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 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 to accurately report noncompliance.

9. Any other violation or group of violations that the Director determines will adversely affect the operation or implementation of the local pretreatment program.

C. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

D. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). 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 and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

E. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs related to a civil penalty or summary abatement within 30 days following a final determination is grounds for permit revocation or termination of the permittee's discharge.

F. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

G. Nothing in this Chapter is intended 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.

H. Termination or prevention of a discharge or 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:

(1) A danger to human health or welfare or the environment; or

(2) Potential interference with the operation of the City sewer system;

b. The permit to discharge into the City sewer system was obtained by misrepresentation of any material fact or by lack of full disclosure;

c. The discharger violates any requirement of this Chapter or an industrial wastewater discharge permit; or

d. Such action is directed by a court of competent jurisdiction.

2. Notice of termination of discharge or permit revocation will be provided to the discharger or posted on the subject property prior to terminating the discharge or revoking a permit.

a. In situations that do not present an imminent danger to health or the environment or an imminent threat of interference with the sewer system, the notice will:

(1) Be provided in writing;

(2) Contain the reasons for the termination of the discharge or permit revocation;

(3) Contain the effective date of City action;

(4) Contain the duration of the termination;

(5) Provide contact information of a City contact;

(6) Be signed by the Director; and

(7) Will be received or refused at the business address of the discharger no less than 30 days prior to the effective date of termination.

b. In situations where there is an imminent danger to human health or welfare or the environment or an imminent threat of interference with the operation of the sewer system, the Director may immediately terminate an existing discharge, prevent a new discharge, 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 will 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 Subsection 17.34.110 H.2.a. will be provided to the discharger.

3. The Director may reinstate an industrial wastewater discharge permit that has been revoked or may reinstate industrial wastewater treatment service upon clear and convincing proof by the discharger of the elimination of the noncompliant discharge or conditions creating the threat of endangerment or interference**.**

I. Annual Publication. A list of Significant Industrial Users that BES considers to be in significant non-compliance with this Chapter shall be published annually in the newspaper of general circulation in Portland, summarizing the enforcement actions taken against industrial users during a prior twelve month period.

17.34.115 Requests for Reconsideration.
(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff. After the requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

1. Reviews and appeals of the following may be requested:

a. The determination of a violation of this Chapter or associated rules.

b. The type and level of enforcement action taken by BES.

c. The type and amount of penalty imposed by BES.

d. Compliance due dates.

e. A requirement to obtain a permit.

f. A denial of a permit.

g. Required remediation actions.

2. Reviews and appeals may not be requested for:

a. The amount of cost recovery assessment against the person by BES.

b. A requirement to meet a technical standard.

c. Other issues identified in individual program-specific administrative rules.

3. Appeals to the City Code Hearings Officer. Appellants must pay a filing fee and a deposit in the amount of the Code Hearing fee as part of their appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will void and return the check to the appellant via certified mail.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

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.

(Amended by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all other ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.34.140 Severability.

(Amended by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated rules 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.

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.
17.35.085 Inspections.
17.35.110 Enforcement.
17.35.120 Revocation or Amendment of Permit.
17.35.130 Compliance Cases and Appeals.
17.35.140 Conflict.
17.35.150 Severability.

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.

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;

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.

17.35.085 Inspections.
(Added by Ordinance No. 186192, effective September 6, 2013.)

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose. This authorization includes but is not limited to inspection, sampling, testing, photographic documentation, record examination, copying, and installation of devices. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.35.090 Revocation/Amendment of Permit.
(Repealed by Ordinance No. 186192, effective September 6, 2013.)

17.35.100 Protection of the Public Interest.
(Repealed by Ordinance No. 185397, effective July 6, 2012.)

17.35.110 Enforcement.
(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to obtain a septage hauler permit;

2. Failure to comply with training requirements;

3. Discharge of wastes violating Section 17.35.050;

4. Failure to pay discharge fees or provide a performance guarantee; or

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15)

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15.

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

F. Nothing in this Chapter is intended 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.

17.35.120 Revocation or Amendment of Permit.

(Added by Ordinance No. 186192, effective September 6, 2013.) All septage discharge permits issued to an applicant by the City may be revoked for any of the following reasons:

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.

D. Septage permits may be amended for the following reasons:

1. A change occurs in a permittee's operations that affect the applicability of this Chapter's provisions.

2. The amendment is required by the applicable State or Federal laws or regulations.

17.35.130 Compliance Cases and Appeals.

(Added by Ordinance No. 186192, effective September 6, 2013.)

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff. After the requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22**.**

1. Reviews and appeals of the following may be requested:

a. The determination of a violation of this Chapter or associated rules.

b. The type and level of enforcement action taken by BES.

c. The type and amount of penalty imposed by BES.

d. Compliance due dates.

e. A requirement to obtain a permit.

f. A denial of a permit.

g. Required remediation actions.

2. Reviews and appeals may not be requested for:

a. The amount of cost recovery assessment against the person by BES.

b. A requirement to meet a technical standard.

c. Other issues identified in program-specific administrative rules.

3. Appeals to the City Code Hearings Officer. Appellants must pay a filing fee and a deposit in the amount of the Code Hearing fee as part of their appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will void and return the check to the appellant via certified mail.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.35.140 Conflict.

(Added by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.35.150 Severability.

(Added by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated administrative rules 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 17.36

SEWER USER CHARGES

(Chapter replaced by Ordinance No. 185870,
effective February 22, 2013.)

Sections:

17.36.010 Intent.
17.36.020 Definitions.
17.36.030 Annual Rate Ordinance.
17.36.040 Sewer System Connection Charges.
17.36.050 User Charges.
17.36.060 Special User Charges.
17.36.070 Service Outside the City.
17.36.080 Collection of Charges.
17.36.090 Adjustment of Bills.
17.36.100 Inspection and Enforcement.
17.36.110 Appeal.

17.36.010 Intent.

This Chapter governs the collection of sewer user charges by the Bureau of Environmental Services (BES) as authorized by the City Charter. It also includes collection processes applicable to other charges assessed by BES.

17.36.020 Definitions.

The following definitions apply to this Chapter:

A. **"Biochemical Oxygen Demand (BOD)"** means the quantity of oxygen utilized in the biochemical oxidation of organic matter per Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136.

B. **"Branch"** means the public portion of the horizontal piping system connecting from the plumbing system of a building or buildings to a public or private sewer.

C. **"Branch Charge"** means a connection charge that reimburses the City for the costs of designing and constructing a public sewer extension and providing individual service laterals.

D. **"Connection Charge"** means a charge assessed by the City for providing public sewer and stormwater management services to a property. A connection charge may include a line charge, branch charge, sanitary sewer system development charge, and a stormwater system development charge. Connection charges are for use or expansion of use of City sanitary or stormwater management services.

E. **"Director**" means the Director of the Bureau of Environmental Services or the Director's designee.

F. **"Equivalent Dwelling Unit (EDU)"** means the estimated average sanitary flow from a single-family dwelling charged to a sewer account.

G. **"Extra Strength Charge"** means the additional charge to wastewater dischargers who have constituent discharges at concentrations above levels normally expected in domestic wastewater, as determined by this Chapter and general ordinance.

H. **"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.

I. **"Impervious Area"** means the area of a property that does not allow rainwater to percolate naturally into the ground. The City classifies the following as impervious areas for billing purposes: roofs; paved areas such as driveways, parking lots, or walkways; and areas of property that are covered by porous pavement. The City does not bill for the following impervious areas: 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.

J. **"ITE Manual**" means the manual used per Section 17.15.020 to determine transportation system development charges.

K. **"Line Charge"** means a connection charge that reimburses the City for the costs of designing and constructing sanitary sewer lines that serve multiple connecting properties.

L. **"Net New Impervious Area"** means 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.

M. **"Net New Vehicular Trips"** means 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.

N. **"Non-Routine Discharge"** means a definable/explainable uncontrolled release or spill to the sanitary sewer system that is not representative of the normal or expected characteristics of a facility's wastewater discharge and that may include discharges defined as slugloads under Chapter 17.34.

O. **"Rate"** means the multiplication factor used to generate a connection or user charge based on cost-per-unit proxies such as gallons of discharge, square feet, or feet of road frontage. Rates can be multiplied by other factors

P. **"Ratepayer"** means a person who has the right to possession of a property and:

1. Who causes or permits the discharge of sanitary sewage into the public sewer system, or

2. Whose use of the property directly or indirectly benefits from stormwater management services provided by the City.

Q. **"Rolling Average"** means the average of the 10 most recent monthly averages of representative 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.

R. **"Sanitary Sewage"** means wastewater discharged to the public sewer system by permit or other approval of the Director and includes, but is not limited to, domestic wastewater, industrial and commercial process wastewater and contaminated stormwater.

S. **"Sanitary Sewer Conversion Charge"** means the charge to convert a nonconforming sewer defined in Chapter 17.33. This charge is assessed in lieu of line and branch connection charges.

T. **"Sanitary System Development Charge (SDC)"** means a connection charge for new or increased demand of the public sewer system. This 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.

U. **"Seed"** means 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). Only seed prepared using

primary effluent from the City's Columbia Boulevard Waste Water Treatment Plant may be used for this analysis.

V. **"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.

W. **"Stormwater Management Services"** means services and actions used to collect, convey, detain, retain, treat or dispose of stormwater runoff. These services include managing stormwater runoff from public streets, mitigating flooding, preventing erosion, improving water quality of stormwater runoff, collecting and conveying stormwater runoff from private properties when runoff exceeds the capacity of private facilities to manage stormwater onsite, mitigating impacts to natural habitats caused by stormwater runoff, and protecting properties and natural habitats from hazardous soils and materials that are discharged from private properties and public rights-of- way.

X. **"Stormwater System Development Charge (SDC)"** means a connection charge for new or increased demand of the public stormwater and drainage system. This charge reimburses the City for 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.

Y. **"Temporary Connection"** means a connection to the sanitary sewer system where the duration of the connection is less than three years and connection and disconnection occur only once. Connections made to the public sewer, stormwater or drainage system made for the purpose of environmental remediation will not be considered a temporary connection unless approved by the Director.

Z. **"Temporary Structure"** means a structure that is separate and distinct from all other structures and is created and removed in its entirety within 3 years, including all impervious area associated with the structure.

AA. **"Total Suspended Solids (TSS)"** means the total suspended matter that either floats on the surface or is suspended in water or wastewater and that is removable by laboratory filtering (as approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto, as published in the Federal Register).

BB. **"Transportation SDC Study"** means the transportation system development methodology established by Chapter 17.15.

CC. **"User Charge"** means a charge paid by a ratepayer for the use of public sanitary or stormwater management services. User charges are calculated on a routine basis such as monthly or annually.

17.36.030 Annual Rate Ordinance.

Charges authorized by this Chapter pay for the City to provide sewer and stormwater management services. Charges are calculated based on true costs of service or may be based on rates per unit volume or usage or area served. Charges and rates are established via a BES rate ordinance adopted annually by the City Council. Charges are effective on a fiscal-year basis (July 1 to June 30 of the following year).

17.36.040 Sewer System Connection Charges.

(Amended by Ordinance No. 186403, effective February 1, 2014.) Connection charges are for establishing a new connection, new use or expanding existing uses of the public sewer and City stormwater facilities. A property may be subject to one or more of these charges depending on the connections made.

A. The methodology for calculating connection charges is set forth in the Sanitary and Stormwater System Development Charge Methodology administrative rules (PPD item ENB – 4.05).

B. Payment is required upon issuance of a building or connection permit or, for connections related to City sewer extension projects, prior to or at the time a property physically connects to the public system.

1. Prepayment. A person may pre-pay connection charges by providing a letter of intent that includes the parcel description and address, if applicable, and the estimated number of EDUs or impervious area. The Director may grant a refund at any time for excess charges at the rate in effect at the time of building permit or connection. Prepayment of connection charges does not guarantee reserved system capacity or usage of City sewer or drainage services. The Director may accept a cash or surety bond posted by the owner of the occupancy in lieu of immediate payment of the charge if:

a. The appropriate number of EDUs for the occupancy cannot be determined before the permit is issued; or

b. The Director has determined the number of equivalent dwelling units for the occupancy but the applicant does not agree with the Director's determination.

2. True-up. Within 2-1/2 years after connection, the Director will determine the number of EDUs and the amount of the SDCs due, using water

consumption records or other evidence. Upon notice, the applicant must pay the SDCs within 60 days or the bond will be forfeited upon approval by the Director and the Commissioner-in-Charge.

3. Deferral of connection charges. Users who qualify to defer SDC or other sewer connection 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 will establish rules, procedures and forms to govern the administration of the deferral program.

C. Sanitary System Development Charge (SDC).

1. A person must pay sanitary SDCs for:

a. Connecting a building property to a sanitary or combined sewer;

b. Increasing sewer usage by alteration, expansion, improvement, or conversion of a building already connected to the sewer; or

c. Increasing flow to a sanitary or combined sewer by causing contaminated stormwater or groundwater to enter the sewer.

2. Sanitary SDCs are calculated based on the number of EDUs.

a. EDUs for nonresidential uses will be calculated from Plumbing Fixture Units (PFUs), as defined by the Oregon Plumbing Specialty Code in effect at the time of the permit application.

b. Industrial wastewater. Industrial wastewater dischargers are subject to review of sewer usage within two years of occupancy. EDUs are calculated from the highest 6-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.

c. EDUs for groundwater or other permitted discharges to sanitary or combined sewer are calculated based on estimated discharge volume.

3. Temporary use. Temporary structures and connections are not subject to sanitary SDCs. However, sanitary SDCs, including penalties and interest charges, become due and payable for structures or connections that are not removed within three years. Temporary structures and temporary connections are not exempt from paying user charges, including extra strength charges.

4. Credits. Sanitary SDC credits may be rewarded for:

a. Prior sewer connections. Full credit may be awarded for each EDU purchased and in existence prior to its demolition or disconnection.

b. Prior sewer user charge payments. A credit of $21 per EDU for each year of sanitary sewer user charge payments from 1949 to 1991 may be awarded for buildings not demolished or disconnected prior to July 1, 1971.

D. Sanitary Line Charge.

1. Residential Property. The line charge is based on the square footage of that portion of the property receiving service that lies within 100 feet of the public right-of-way or easement where a sewer has been constructed or is planned. 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.

2. Non-Residential Property. The line charge is based on the square footage of the portion of the property receiving service that lies within 300 feet of the public right-of-way or easement where a sewer has been constructed or is planned. Such street or easement line is considered as continuing 300 feet beyond the end of the main line sewer or beyond where the sewer turns away from the property. The minimum line charge is based on a minimum lot size of 3,600 square feet.

3. When an adjacent, developed lot, as defined in Title 33 of this Code, is under the same ownership and used in conjunction with a neighboring, developed lot that is connected 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.

4. Lack of gravity service. When a sewer is constructed that can not provide full gravity service, the line charge is reduced by:

a. 50 percent if the property has gravity service to the first floor only and must install a pump for the basement; and

b. 75 percent 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.

E. Branch charge. BES collects a branch charge for providing a branch sewer to the property, but only if the property was not assessed for the branch or its equivalent previously.

1. Additional charges may be assessed to cover the City's design and construction costs for branches that were requested by the user but not ultimately used. These charges must be paid before the property may be connected to the public system.

2. BES collects a branch charge for City adoption of private nonconforming sewer lines located within the public right-of-way as provided under Subsection 17.32.055 B.2.

3. Sampling manhole charge. When a property is subject to an extra strength charge as described in Subsection 17.36.060 A., the user may request that the City install a sampling manhole on the branch. The user must pay all direct and indirect costs of installing the manhole.

F. Sewer Conversion Charges. A property owner must pay sanitary sewer conversion charges according to the following two categories and as determined by administrative rule at the time the City provides a new sewer connection or when the property owner requests a permit for a new conforming sewer connection.

1. Residential Conversion Charges. Single-family, duplex, three-plex, or four-plex properties are assessed the residential sewer conversion charge, which is the branch charge in place at the time of connection.

2. Commercial Conversion Charges. All multifamily, commercial, mixed-use, industrial, and institutional properties are assessed according to administrative rule and are calculated to recover costs for City sewer extension projects that serve the property. The commercial conversion

charge replaces line, branch, system development and connection charges in this context.

G. Stormwater System Development Charge. The stormwater SDC consists of two parts: an onsite 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.

1. The onsite 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.

2. The offsite charge is calculated in two parts: local access, and use of arterial streets.

a. The local access portion of the offsite charge is calculated by multiplying the length of the property's frontage by a per lineal foot rate. For properties on which there is existing development and for which a stormwater SDC has previously been paid, the local access portion will be waived.

b. The arterials portion of the offsite 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.

3. Credits. Credits may be granted for the onsite portion of the stormwater SDC in one of the following two cases:

a. Credits of up to 100 percent of the onsite portion of the stormwater SDC may be granted for areas draining, either in whole or in part, directly to the Willamette or Columbia Rivers or to the Columbia Slough. Only discharges that do not pass through City-financed stormwater facilities and meet all applicable water quality standards are eligible for credits. Credit applications must adequately demonstrate the satisfaction of these conditions. Development using stormwater facilities built under a public works permit that convey stormwater runoff directly to the Willamette or Columbia Rivers or the Columbia Slough without passing through other City stormwater facilities is eligible for up to 100 percent credit for the onsite charge.

b. A 100 percent credit may be 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 may be granted for the offsite portion of the stormwater SDC.

H. Partial and Full Exemptions for Affordable Housing Developments. Permanent affordable housing developments may be eligible for a waiver of sanitary and stormwater SDCs pursuant to Section 30.01.095.

17.36.050 User Charges.

Sewer user charges are established and made effective as follows:

A. Timing. User charges are calculated on a routine basis, such as monthly, quarterly or annually.

B. Sanitary Sewer Services. 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. 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:

1. Residential dwellings. Residential dwelling units are assessed based on the volume of sewage discharged to the sanitary sewer system. The Director may elect to use water consumption as the basis of this calculation. To avoid including irrigation water usage in this calculation, the Director will establish a procedure that allows for irrigation credit. When a water meter reading is not available, a sanitary sewer discharge estimate will be made based on the ratepayer class of characteristics per administrative rule.

2. Non-residential occupancies. The City calculates charges for commercial, industrial, and all occupancies based on the amount of incoming water volume as measured by the City water meter, information from the water district serving the property, or by an approved meter that measures actual sanitary discharge volume.

3. Combined dwelling units and other. Where dwelling units and other occupancies use 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.

4. Estimating wastewater discharges for mobile dischargers. User charges 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.

5. 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 determined by the amount of impervious area producing the contaminated stormwater plus the average rainfall or a discharge meter. The discharge will be charged based on sanitary sewer volume rates.

C. In cases where water is supplied solely from a private source or sources such as wells, springs, rivers or creeks, or from a partial supply in addition to that furnished by the City, residential ratepayers are assigned the class average volume for their alternative source water use. Commercial ratepayers must meter the private supply either as an inflow or a discharge in conformance to the provisions of this Chapter.

D. Meters required. Any meter or method used for calculation of a adjusted charge or credit is subject to the administrative or special meter charge for each such meter or method. The property owner is responsible for purchasing, installing, maintaining, and calibrating the private meter and must comply with all provisions in this Title. Meters must be approved by the Director as to type, maintenance, calibration schedule, size and location before installation.

1. All meters must register in cubic feet.

2. 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.

3. 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.

4. All meters must be located in an area that is freely accessible at all times and that, in determination of the Director, does not present a danger to City employees.

5. The owner of a meter 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.

6. Failure of the owner, the owner's lessee, or others acting under the owner to maintain the meter in good working order constitutes a violation of this Chapter. 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.

E. Credits. A ratepayer must submit a written request for establishing reduced charges or credit for water not subject to sewer user charges. Requests must be received prior to any use of water that may be subject to reduced or special charges, and prior to installation of any meter. A request for credit must include a meter maintenance plan and 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. Reduced charges or credits will not be given for any period prior to the date of approval. No reduced sewer charge may be given until the Director has approved the request.

1. Water not subject to sewer user charges. The Director may exempt from sewer 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. To calculate the quantity of exempt water, a meter must be installed to the satisfaction of the Director.

2. Clean water discharges. When a non-residential ratepayer requests approval for a temporary or permanent discharge of clean water to a public sewer system, the discharger must install meters or provide other verifiable and quantifiable information using a method approved by the Director to determine the volume of water to be discharged. Water such

as that used for refrigerating or cooling purposes or condensed from steam and that has been put to no other use may be discharged into the sanitary system as clean water.

a. Clean water to storm sewer or other public drainage systems. Charges are calculated based on the clean water discharge-to-storm rate multiplied by the measured or estimated volume of water discharged to a public storm sewer or other public drainage system.

b. Clean water to sanitary or combined sewer systems. Charges are the same for other sewer uses and are calculated based on the non-residential sewer services rate multiplied by the measured or estimated volume of water discharged to a public sanitary or combined sewer.

3. Conditions for revoking reduced charges or credits. The following conditions will nullify discounts and reinstate full user charges until such time as the owner or person in charge of the premises formally notifies the Director that the situation has been rectified.

a. Defective discharge meters. During the period of the meter's non-operation and pending the proper repair and reinstallation of the meter, the account may be billed for the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources. At no time may a reduced charge or credit be allowed retroactively, or for a period in which the meter is defective.

b. Failure to report. Failure to report on quantities of water subject to reduced charge or credit for 2 consecutive months is a violation of this Chapter. User charges must be paid on the full amount of water passing through the supply meter and up to three times the supply flow provided by non-City resources during these 60 days. At no time may a reduced charge or credit be allowed retroactively, or for a period in which no reports were submitted.

F. Stormwater Management Services. 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 rate for the on-site component is 35 percent of the stormwater management services rate.

b. Stormwater Off-Site. The user rate for the off-site component is 65 percent of the stormwater management services rate.

2. Basis for charge. User charges are calculated based on the user's proportionate share of City stormwater management services as estimated by the amount of impervious area on the user's site. Unless the site has been measured to the satisfaction of the Director, impervious area is assumed to be the average impervious area for the user's class.

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

4. Properties other than dwelling units or with five or more dwelling units. The City calculates the ratepayer's use of stormwater drainage system services based on the amount of impervious area on the site.

5. Clean River Rewards. Clean River Rewards discounts are offered to increase ratepayer control over stormwater management charges and to advance City environmental goals. The program provides economic incentives, technical assistance, and environmental education to ratepayers who control and manage the quality and quantity of stormwater runoff on their private property.

G. Portland Harbor Superfund Charge. The City calculates and collects user charges for the Portland Harbor Superfund Program. If the property is not subject to other City utility charges, the Director determines the ratepayer responsible for the Portland Harbor Superfund charge. This user charge appears as a line item on the City utility bill, and is the sum of the following two rate calculations:

1. Sanitary Volume. This portion of the charge is the sanitary sewer service user charge multiplied by the Portland Harbor Superfund Sanitary Volume rate.

2. Impervious Area. This portion of the charge is the stormwater management services charge multiplied by the Portland Harbor Superfund Impervious Area rate.

17.36.060 Special User Charges.

The following charges are applicable to only certain user groups and are assessed in addition to other user charges. Users may be subject to one of more of these charges. The current charge rates are provided on the BES annual rate ordinance.

A. Extra-Strength Charge. Wastewater discharged to a City sewer, either directly or indirectly, is subject to an extra-strength charge if the discharge has a BOD or TSS in excess of concentration thresholds determined by the Director. The Director may establish concentration thresholds for other pollutants that are subject to extra-strength charges. Payment of an extra-strength charge does not excuse the discharger from complying with all other applicable provisions of Chapter 17.34 of this Code.

1. Calculation of Charges. Extra-strength charges are based on the following:

a. The concentration of pollutants in excess of thresholds established by the Director and adopted by Council.

b. The total metered water supplied to the premises. The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters and the user provides a meter or other measurement method acceptable to the Director. For multiple tenant buildings with shared water service, extra-strength charges will be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.

2. Methodologies for calculating extra-strength charges.

a. Measured Rolling Average.This method bases a user's rate on the average concentration of the ten most recent monthly concentration averages. Rolling averages are initiated with samples taken over a 5-day period unless otherwise specified by the Director. Samples must be taken daily at an approved sampling manhole or other location as determined by the Director.

(1) Self-monitoring. A user may be authorized to submit monitoring data as a basis for rate calculations. Wastewater samples must be representative of the discharge.

(a) Reports. Self-monitoring reports must include sufficient information to calculate the extra-strength rolling average.

(b) All analytical data submitted for rate calculations 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.

(c) 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 charge calculation. The Director may require a split of any independent sample collected by the user for the purpose of extra-strength charge calculation.

(2) Additional sample requests. Any user subject to the measured rolling average method may request that BES collect additional samples. Requests must be submitted in writing. Full payment of re-sampling charges must be received prior to BES incorporating sampling results into the rolling average.

(a) Split samples. The Director may allow samples collected by the City for the purpose of determining an extra-strength sewage charge to be split with the user, as provided for in administrative rule.

(3) Non-routine Discharges. The Director may allow the exclusion of monitoring data from samples collected during a non-routine discharge from use in calculating a ratepayer's rolling average, using criteria defined in administrative rules.

b. Extra-strength class averages. The Director may establish a rate structure for users to be billed extra-strength charges based on the average discharge concentration of their business class. Businesses subject to class-average extra-strength charges will be eligible for rate reductions based on the verifiable implementation of approved best management practices, using criteria established by administrative rule.

c. Other charge computations. If unusual effluent conditions make calculation by the measured rolling average or the extra-strength class-average method difficult or impossible, the Director may implement another method of sampling and computation. The Director may establish custom rates based on site-specific conditions per the criteria in administrative rule.

3. Billing. Extra-strength charges are either included with the City utility bill or are billed separately by the City Auditor. These charges are enforceable and collectable in the same manner as water and sewer user charges. Failure to pay pursuant to Title 21 of this Code may be cause for termination of water and sewer services.

4. Minimal charges; suspension. The Director may establish a minimum revenue threshold for periodic extra-strength charges using the rolling average method. The billing for all accounts with periodic extra-strength sewage charges below this minimum revenue threshold will be suspended or changed to the class average method until they increase beyond the revenue threshold again.

5. Adjustments. The Director may adjust a user's charges where applicable at any time in accordance with the most recent monitoring analysis.

B. Building plan review charges. Charges are collected by the Bureau of Development Services on behalf of BES for the review of building plans and land use proposals to ensure compliance with requirements for sewage disposal, stormwater management, pollution prevention and source controls, and for determining routes of service.

C. Charges for Adoption of Nonconforming Sewer Lines. An owner of a property connected to the public sewer by a nonconforming sewer line in a public right-of-way may request that the City adopt the nonconforming line under Subsection 17.32.055 B.2. and associated administrative rules. Adoption charges will be assessed as provided by Subsection 17.36.040 A.3.d. unless the nonconforming line meets City standards as described in administrative rule.

D. Industrial Wastewater Permit Charges. Permitted users as identified in Chapter 17.34 must pay industrial wastewater permit charges based on the level of permit complexity, regulatory history, and amount of BES administrative oversight. Charge components are scaled based on whether an industrial discharger is a categorical industrial user, significant industrial user, or neither. Charges are calculated from the actual costs of BES staff to provide such services as data entry, permit administration, inspection, and permit processing for industrial users.

E. Batch Discharge Charges. Users desiring City authorization for one-time discharges from their site must pay the batch discharge review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges.

F. Discharge Authorization (DA) Charges. A user seeking City authorization for on-going discharges from their site or typical business activity must pay a discharge authorization review charge. This charge reimburses the City for site research, system capacity, and pretreatment evaluation for requested discharges. DA charges will be assessed on a sliding scale depending on the level of review necessary for submittals provided or required to approve the DA request.

G. Sampling Charges. A discharger requesting City sampling and analysis assistance to support discharge authorization, permit, or other compliance activities will receive a specific cost estimate from BES.

17.36.070 Service Outside the City.

A. The City charges for the use of sanitary sewer and stormwater management services from properties outside the City based on annually established rates.

B. Determination of whether a 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.

C. The Director may require and 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 the Director finds such service feasible and appropriate.

17.36.080 Collection of Charges.

A. All charges for services provided to a property are the responsibility of the ratepayer benefiting from or using City services at that property. This responsibility will attach to the ratepayer's subsequent City utility accounts and applies whether the ratepayer is the sole user of the services or furnishes them in turn to third parties.

B. Billing due dates. User charges are computed monthly, bimonthly, or quarterly, coincident with user charges for water service .

1. When billed with the utility bill, user charges are due and payable on the date provided on the water service bill. 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.

2. For ratepayers who do not receive water service from the City, user charges will be computed and billed monthly, bimonthly, or quarterly.

C. Collections. Upon determination by the Director that a charge is past due or otherwise delinquent, the City may avail itself of the full range of actions authorized by City Code.

D. Discontinuation of services. Charges not paid in accordance with the due date in the bill or invoice may be subject to water shutoff pursuant to Title 21 of this Code. The Director, with approval of the Commissioner-in-Charge, may also discontinue sanitary sewer service by disconnecting and plugging the sewer service line to properties whose delinquent user charges exceed $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 or 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.

17.36.090 Adjustment of Bills.

A. When the Director determines that a billing error has occurred, the Director may authorize an adjustment of the ratepayer's utility account for the period of the error, not to exceed 3 years from the date the error is identified.

B. Except as set forth in this Subsection, a ratepayer's eligibility for an adjustment will end 6 months after the date a final bill was issued for the subject account. The Director may authorize an adjustment to the outstanding balance of a closed utility account more than 6 months after the issuance of the account's final bill if:

1. The ratepayer was billed for sanitary sewer services for a property that was not connected to the City's sewer system;

2. The error is discovered after the 6 month deadline for adjustments to a final bill;

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.

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.

17.36.100 Inspection and Enforcement.

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 sewers and drainage systems 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.

C. Meter Tampering Unlawful. It is unlawful to 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.

D. Sampling Tampering Unlawful. It is unlawful to tamper in any manner with City-owned or City-installed sampling equipment or samples therefrom.

E. Falsifying applications or records. Ratepayers shown to have falsified applications and records may be subject to enforcement action.

F. Enforcement Actions may include:

1. Withholding of City services;

2. Withholding of City permits;

3. Reversal of credits. Any credits awarded based on falsified data may be reimbursed to the City via additional charges on the City water and sewer bill.

G. Civil Remedies.

1. In addition to the remedies provided by any other provision of this Chapter, the City may obtain, in any court of competent jurisdiction, a judgment against a person or property failing to comply with the provision of this Chapter. In any such action, the measure of damages shall be the costs for abatement by the City, administrative costs, permit charges, overhead costs, penalties, and other charges as determined by the Director.

2. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may commence and maintain an action or proceeding in any court of competent jurisdiction to compel

compliance with, or prevent by injunction, the violation of any provision of this Chapter.

17.36.110 Appeal.

(Replaced by Ordinance No. 186403, effective February 1, 2014.) A ratepayer, property owner or owner's agent may request modification of a BES assessment of a charge as described in this Chapter via administrative review with BES staff. After the requestor has exhausted all BES program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

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; Amended by Ordinance No. 186403, effective February 1, 2014.) 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. **"Disconnection"** means physically plugging or capping the direct stormwater 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.

D. "**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.

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

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

$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.

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.
17.38.060 Compliance Cases and Appeals.
17.38.070 Conflict.
17.38.080 Severability.

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.

B. **"Capacity"** means tThe 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 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 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, 185397 and 186659, effective July 18, 2014.)

A. Authority. The Director may require drainage reserves or tracts over seeps, springs, wetlands 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 are adopted by administrative rule. Placement 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:

(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.

5. Not withstanding 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.

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. Not withstanding 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 deminimus, or provide for and limit the permanent or temporary discharge of groundwater. Temporary groundwater discharges may be authorized through the batch discharge processes described in Title 17.34 and 17.39. In establishing rules to regulate the pumping and discharge

of groundwater as a waste, the Director shall, at a minimum, incorporate and implement the following standards.

1. Authorizations for discharge. Unless the Director's rules establish exceptions or determines discharges are deminimus, 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 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 Mangement Facilities Required.

(Amended by Ordinance Nos. 174745, 176783, 180037, 182144, 183397, 185397 and 186659, effective July 18, 2014.) No plat, site plan, building permit or public works project shall be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities designed according to standards or guidelines established by the Director and as specified in the Stormwater Management Manual.

A. Applicability. All development and redevelopment sites with the following triggers must comply with the standards of the Stormwater Management Manual:

1. Creation of any new impervious area. Sites with 500 square feet or more of impervious area must be managed for pollution reduction, quantity or flow control requirements as spelled out in this Section; or

2. Modification to or construction of new areas with pollution generating activities of concern as identified in the Stormwater Management Manual. These areas must be constructed with applicable onsite controls; or

3. New connections or new drainage areas routed into the City's sewer or drainage system under a City permit. These connections most often are generated from decommissioning of private, onsite drainage or groundwater related systems.

4. Temporary structures are exempt from pollution reduction and flow control requirements, except for specific instances called out in the Stormwater Management Manual.

B. Exemptions. The requirements of this Chapter for stormwater management do not apply to:

1. Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.

2. Public or private development that does not result in impervious surface coverage or results in coverage that is de minimus in relation to discharge, 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 Storwater Management Manual, may appeal such action in accordance with appeals processes specified in the Stormwater Management Manual.

1. Provision for reasonable interpretation of the Stormwater Management Manual. The Director shall establish an internal BES Administrative Review Committee and a BES Appeals Board. The Chief Engineer of the Bureau of Environmental Services shall appoint outside members to the BES Appeals Board.

2. Applicants shall file appeals in accordance with the appeals process procedures specified in the Stormwater Management Manual.

D. Maintenance of Stormwater and Groundwater Management Facilities.

1. All 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.

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.

(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Right of Entry. To the extent permitted by law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose 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. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement, or other type of agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, routine safety and sanitary requirements of the facility or site as provided by the facility operator at the time of entry. The facility operator must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.38.045 Enforcement.

(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Violations. It is a violation for any persons to fail to comply with the requirements of this Chapter and associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to construct stormwater management facilities to the standards of the City's Stormwater Management Manual and Section 17.38.035;

2. Failure to comply with a written order of the Director, made under authority of this Chapter, that is not met within the specified time;

3. Failure to comply with any condition of an operations and maintenance plan or agreement issued under the authority of this Chapter or rules that is not met within a specified time;

4. Failure to maintain a stormwater management facility leading to a potential or actual operating deficiency of the facility;

5. Failure to have a properly recorded, or accurate O & M plan on file with BES; and

6. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Persons violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-

specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full.

D. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with PCC or associated rules.

E. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with the violations of this Chapter or associated rules.

F. Nothing in this Chapter is intended 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.

17.38.050 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 Compliance Cases and Appeals.

(Added by Ordinance No. 186192, effective September 6, 2013.)

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff. After the

requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

1. Reviews and appeals of the following may be requested:

a. The determination of a violation of this Chapter or associated rules.

b. The type and level of enforcement action taken by BES.

c. The type and amount of penalty imposed by BES.

d. Compliance due dates.

e. A requirement to obtain a permit.

f. A denial of a permit.

g. Required remediation actions.

2. Reviews and appeals may not be requested for:

a. The amount of cost recovery assessment against the person by BES.

b. A requirement to meet a technical standard.

c. Other issues identified in individual program-specific administrative rules.

3. Appeals to the City Code Hearings Officer. Appellants must pay a filing fee and a deposit in the amount of the Code Hearing fee as part of their appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will void and return the check to the appellant via certified mail.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence.

17.38.070 Conflict.

(Added by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter.

17.38.080 Severability.

(Added by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word, or Section of this Chapter or associated administrative rules 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 17.39

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; Amended by Ordinance No. 186403, effective February 1, 2014.) 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.).

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.

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.

R. "Underground Injection Control (UIC)" means any system or structure that is intended to discharge fluids below the ground surface. Examples of UICs include, but are not limited to drywells, sumps, trench drains and infiltration galleries.

S. "UIC Water Pollution Control Facility (WPCF) Permit" means the Safe Drinking Water Act (40 CFR Part 144) and Oregon Administrative Rules (OAR 340-44) regulating the construction and operation of Class V UICs for stormwater discharges.

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.

(Amended by Ordinance No. 186403, effective February 1, 2014.) The following discharges to the City's storm sewer and drainage system are prohibited:

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;

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 BES 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.
(Amended by Ordinance No. 186403, effective February 1, 2014.)

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 BES within five days of discovery of an illicit discharge or as otherwise specified by a BES discharge permit or 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.

17.39.060 Discharge Permits and Other Authorizations.
(Amended by Ordinance No. 186403, effective February 1, 2014.)

A. BES discharge permit or authorization may be required for discharges not subject to NPDES or UIC WPCF permit requirements for discharges that would:

1. Interfer with or harm the City storm sewer and drainage system;

2. Contribute to a violation of the City's NPDES stormwater discharge permit;

3. Contribute to a violation of the City's UIC WPCF stormwater permit;

4. Degrade the receiving surface water or groundwater; or

5. Have a negative effect on human health, safety or the environment.

B. A BES discharge permit or 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 discharge request must be submitted and BES must approve or deny 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 BES discharge permit or authorization when required by BES either at the time of development application or at the time of discovery of a discharge meeting the criteria of Subsection 17.39.060 A.

D. The discharger must allow site inspections by BES to verify site conditions or submit additional information, reports and plans as part of the DA or BES discharge permit request, such as:

1. A Stormwater Pollution Control Plan (SWPCP), which describes measures to eliminate, reduce and control the level of pollutants in discharges;

2. An Accidental Spill Prevention Plan (ASPP), which documents facility or discharger-specific spill response procedures and describes measures to

prevent the release of prohibited or deleterious materials to the City storm sewer and drainage system;

3. A Best Management Practices (BMP) Plan which describes actions to reduce or eliminates pollutants and hydrologic impacts associated with a discharge; or

4. 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.

(Amended by Ordinance No. 186192, effective September 6, 2013.)

A. Right of Entry. To the full extent permitted by the law, BES may enter all private and public premises at any time for the purpose of inspecting for potential violations, connections or for any other lawful purpose 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. Entry may not be conditioned upon BES representatives signing any type of confirmation, release, consent, acknowledgement or other type of agreement.

B. Entry Protocols.

1. The BES representative will present a City photo identification card at the time of entry.

2. The BES representative will comply with reasonable, 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 must provide the BES representative with any facility-specific safety protective equipment necessary for entry.

17.39.080 Sampling.

(Amended by Ordinance No. 186403, effective February 1, 2014.) BES 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 BES discharge 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 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.

(Replaced by Ordinance No. 186192; Amended by Ordinance No. 186403, effective February 1, 2014.)

A. Violations. It is a violation for any person to fail to comply with the requirements of this Chapter or associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or 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 BES 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 BES discharge permit or authorization-related submittal schedule or a violation remediation schedule;

4. Failure to pay review fees or assigned penalties for violations; or

5. Failure to comply with enforcement actions as identified in the BES Enforcement Program administrative rules (PPD item ENB-4.15).

B. Enforcement Tools. BES may use any or all of the following tools to enforce this Chapter or associated administrative rules: notice of investigation, warning notice, notice of violation, compliance order, requirement to obtain a permit, notice of termination, withholding of permits, violation abatement, legal action, criminal case referral, or referral to other regulatory agencies. BES enforcement actions are described in program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15).

C. Civil Penalties. Dischargers violating this Chapter or associated rules may be assessed civil penalties of up to $10,000 per day per violation according to program-specific administrative rules and the BES Enforcement Program administrative rules (PPD item ENB-4.15). Penalties and other charges will accrue interest from the date of initial City notice assessing the penalty until the penalty is paid in full. Dischargers violating this Chapter will be solely responsible for reimbursing the City's abatement expenses.

D. Cost Recovery. The Director may recover all reasonable costs incurred by the City that are attributable to or associated with violations of this Chapter or associated administrative rules per PPD item ENB-4.15. Failure to pay costs

related to a civil penalty or summary abatement within 30 days following a final determination is grounds for permit revocation or termination of the permittee's discharge

E. City Summary Abatement. To the extent permitted by law, the Director may recover from the person causing the violation all costs incurred by the City to summarily abate the following:

1. A violation that is not remedied through required corrective actions;

2. A situation that poses an imminent danger to human health, public safety, or the environment; or

3. Continued noncompliance with the PCC or associated rules.

F. Nothing in this Chapter is intended 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.
(Replaced by Ordinance No. 186192, effective September 6, 2013.)

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff. After the requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

1. Reviews and appeals of the following may be requested:

a. The determination of a violation of this Chapter or associated rules.

b. The type and level of enforcement action taken by BES.

c. The type and amount of penalty imposed by BES.

d. Compliance due dates.

e. A requirement to obtain a permit.

f. A denial of a permit.

g. Required remediation actions.

2. Reviews and appeals may not be requested for:

a. The amount of cost recovery assessment against the person by BES.

b. A requirement to meet a technical standard.

c. Other issues identified in individual program-specific administrative rules.

3. Appeals to the City Code Hearings Officer. Appellants must pay a filing fee and a deposit in the amount of the Code Hearing fee as part of their appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will void and return the check to the appellant via certified mail.

B. BES Code Compliance Cases. BES may file a case before the Code Hearings Officer under PCC Title 22 to compel compliance with City regulations. The person committing the violation will be offered the opportunity to present evidence in the case.

17.39.130 Conflict.

(Amended by Ordinance No. 186192, effective September 6, 2013.) This Chapter supersedes all other ordinances or elements thereof to the extent that they are inconsistent with or conflict with any part of this Chapter are hereby repealed to the extent of such inconsistency or conflict.

17.39.140 Severability.

(Amended by Ordinance No. 186192, effective September 6, 2013.) If any provision, paragraph, word or Section of this Chapter or associated rules 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 17.40

PROTECTION OF PUBLIC RIGHT-OF-WAY

(Chapter amended by Ordinance No. 184957, effective November 25, 2011.)

Sections:

17.40.010 Injuries to Pavement.
17.40.020 Endangering Pavement.
17.40.030 Charges for City Patching of Roadway Areas.
17.40.040 Damages to Public Right-of-Way.
17.40.050 Disposition of Asphalt, Concrete, Rock and Dirt.
17.40.060 Disposition of Leaves.

17.40.010 Injuries to Pavement.

(Amended by Ordinance No. 184957, effective November 25, 2011.)

A. It is unlawful for any person to cause or permit to come in contact with any paved roadway, curb or sidewalk, any corrosive or other substance which may tend to disintegrate or injure such pavement. This shall not apply to salt or salt mixtures placed thereon to melt snow or ice.

B. It is unlawful for any person to cause or permit any object to fall upon or be placed upon any paved roadway, curb or sidewalk of such weight or other characteristic as to crack, break or disturb the pavement surface. This shall not apply to ordinary wear and tear from vehicular traffic.

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

D. It is unlawful for any person to cause or permit any fire to be kindled or made upon any paved roadway, curb or sidewalk or to heat any material in close proximity to such paved surface.

17.40.020 Endangering Pavement.

(Amended by Ordinance No. 184957, effective November 25, 2011.) In the course of construction under a permit issued by the City, it is unlawful for any person to cause or permit any undermining of any pavement not cut or to be replaced as a part of the work;

to tunnel under street area without providing complete support of the pavement above such tunnel; to cause or permit to be washed away the ground or fill material supporting pavement; to make any excavation within street area pursuant to permit without securely and safely bracing such excavation so as to prevent the sides or walls of the excavation from falling or caving in; to cause or permit any excavation to be made on private property adjacent to street area without securely and safely bracing the wall or side of the excavation near the paved area so as to prevent falling or caving in and to protect the support of the pavement; or to cause or permit any other act to be done which would tend to endanger the direct or lateral support of the pavement.

17.40.030 Charges for City Patching of Roadway Areas.

(Amended by Ordinance Nos. 145974 and 173369, effective May 12, 1999.) Any person who has dug up or cut into the roadway surface of a street paved with bituminous paving may request the City to replace the roadway area by patching the pavement. This shall not apply to local improvements, public improvements under permit, or general maintenance of roadway areas by the City. The applicant shall first prepare the area, if the base has been disturbed, by removing any excavated material from below the pavement and filling and compacting the same to sub-base level with gravel, all at his own expense. The applicant shall pay for the repair on a cost basis. The cost basis will include the actual costs of all labor, equipment, materials and supervision required to do the work along with appropriate overhead costs as determined in accordance with provisions of the finance regulations.

17.40.040 Damages to Public Right-of-way.

(Added by Ordinance No. 184957, effective November 25, 2011.)

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

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

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

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

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

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

17.40.050 Disposition of Asphalt, Concrete, Rock and Dirt.

(Added by Ordinance No. 185351, effective June 22, 2012.)

A. All asphalt, concrete, rock and dirt removed from existing infrastructure in the public right-of-way shall be disposed of at the direction of the Director of the Bureau of Transportation who has the authority for the disposal of such materials.

B. The asphalt, concrete, rock and dirt from existing infrastructure in the right-of-way are often recycled by the City into an aggregate and back fill products which the City uses as road base on residential streets, trench fill and back fill. If the City generates more of these recycled products then it can use, the Director of the Bureau of Transportation may sell or donate the materials.

1. Pricing of the materials to be sold shall be based on current market price and reviewed at least biannually by the Bureau of Transportation.

C. The Bureau of Transportation, at the discretion of its Director, may levy a fee for accepting and processing asphalt, concrete, rock and dirt from third parties asphalt, concrete, rock and dirt for the purposes of recycling.

1. Pricing of this service (tipping fee) shall be based on current market price and reviewed at least biannually by the Bureau of Transportation.

D. Revenue generated by selling these materials and services shall be returned to the Bureau of Transportation.

17.40.060 Disposition of Leaves.

(Added by Ordinance No. 185351, effective June 22, 2012.)

A. All leaves collected from the public right-of-way shall be disposed of at the direction of the Director of the Bureau of Transportation who has the authority for the disposal of such materials.

B. The leaves collected from the existing right-of-way are often processed into compost which the City uses as erosion control and soil amendment. If the City generates more of these recycled products then it can use, the Director of the Bureau of Transportation may sell or donate the materials.

1. Pricing of the materials to be sold shall be based on current market price and reviewed at least biannually by the Bureau of Transportation.

C. The Bureau of Transportation, at the discretion of its Director, may levy a fee for accepting and processing leaves or other matter consistent with composting from third parties for the purposes of recycling.

1. Pricing of this service (tipping fee) shall be based on current market price and reviewed at least biannually by the Bureau of Transportation.

D. Revenue generated by selling these materials and services shall be returned to the Bureau of Transportation.

Chapter 17.41

LANDSLIDE ABATEMENT

(Added by Ordinance No. 165864,
effective Sept. 30, 1992.)

Sections:

17.41.010 Purpose.
17.41.020 Definitions.
17.41.030 Applicability.
17.41.040 Landslide As a Nuisance; Costs.
17.41.050 Abatement.
17.41.060 Administrative Review.

17.41.010 Purpose.

(Amended by Ordinance No. 173369, effective May 12, 1999.) The purpose of this Section is to protect the public from hazards created by landslides that deposit material on the public right-of-way, remove material from the public right-of-way or threaten the stability of the right-of-way. The intent of this Section is to provide for the immediate abatement of a landslide by the responsible property owner or, if necessary, by the City.

17.41.020 Definitions.

(Amended by Ordinance Nos. 173369 and 182760, effective June 5, 2009.) For purposes of this Chapter 17.41:

A. **"Costs"** means any costs, direct or indirect, incurred by the City in the abatement of a landslide. Costs may include, but are not limited to, those associated with the removal of debris, traffic control and barricading, engineering, construction, erosion control, reforestation, restoration and repair of existing public facilities, City overhead as provided in 5.48.030, and City Auditor's charges established in 17.12.020 B.

B. **"Landslide"** means any detached mass of soil, rock, or debris that is of sufficient size to cause damage and moves down a slope or stream channel.

C. **"Owner"** means the person or persons shown on the most recent property tax records.

D. **"Responsible property"** means the property or properties abutting that portion of the public right-of-way on which materials have been deposited by a landslide, or property or properties which has caused the instability of the public right-of-way.

17.41.030 Applicability.

(Amended by Ordinance Nos. 173369 and 182760, effective June 5, 2009.) This Chapter applies to:

A. Landslides that originate on private property and deposit material on the public right-of-way; and

B. Landslides in unimproved public right-of-way as defined by Chapter 17.42 of this code.

C. Landslides in public right-of-way caused by actions on property abutting such public right-of-way.

D. Landslides that threaten the stability of the public right-of-way.

17.41.040 Landslide As a Nuisance; Costs.

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

A. A landslide is a public nuisance. The nuisance is subject to abatement as provided by Title 29, except as provided in this Chapter. Abatement by the City shall be conducted at the direction of the City Engineer. The City Engineer may direct summary abatement where there is an immediate threat to the public safety.

B. Recovery of costs incurred by the City in the abatement of a landslide shall be as provided in Title 29, and such costs shall be assessed to the responsible property.

17.41.050 Abatement.

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

A. The owner of the responsible property is required to abate the landslide.

B. Abatement of a landslide includes:

1. Immediate work necessary to remove the debris from any areas where it would constitute or create a hazard to the public and to temporarily stabilize the slope; and

2. Permanent stabilization of the slope, as necessary, through engineered solutions such as retaining walls or riprap. Plans and specifications for permanent stabilization shall be prepared by a professional engineer registered in the State of Oregon and shall be approved by the City Engineer.

C. If summary abatement is not directed, the City Engineer may post notice on the responsible property of the requirement for immediate abatement, including dates by which the abatement must be commenced and completed. Such notice shall also be mailed to the owner and/or occupant of the responsible property. If the abatement is not commenced or completed within the time provided in the notice, the City Engineer may cause the landslide to be abated and the costs assessed against the responsible property.

D. Where necessary, the City Engineer may also post and mail notice regarding the requirement for permanent stabilization of the slope. Such notice shall include the date by which plans for such permanent stabilization shall be submitted to the City Engineer. If such plans are not submitted by the stated date, the City Engineer may cause the permanent stabilization portion of the abatement to be accomplished and the cost assessed against the responsible property.

E. Before beginning any work in the right-of-way, the owner of the responsible property shall obtain the permits required by Chapter 17.24 of this Code.

F. A building permit shall be required for permanent stabilization work performed on private property. Such permits shall be approved by the Bureau of Development Services and the City Engineer.

G. If at any stage of the abatement, the owner of the responsible property fails to comply with the requirements imposed by the City Engineer, the City Engineer may cause the abatement to be completed by the City and the cost assessed against the responsible property.

H. If there is more than one responsible property, the City Engineer shall apportion all costs incurred by the City in abatement based on the front footage of the slide area in the right-of-way.

I. Nothing in this Code shall be deemed to prevent a party required by this Chapter to pay for abatement of a landslide from exercising any rights her or she may have against the party or parties who may have caused the landslide.

17.41.060 Administrative Review.

(Amended by Ordinance No. 173369, effective May 12, 1999.) Administrative review shall be conducted as provided in Title 29, except that the review shall be conducted by the City Engineer. Appeal shall be to the Code Hearings Officer as provided in Chapter 22.10 of this Code.

Chapter 17.42

PROPERTY OWNER RESPONSIBILITY FOR STREETS

(New Chapter added by
Ordinance No. 172051,
effective March 11, 1998.)

Sections:

17.42.010 Policy.
17.42.020 Maintenance and Construction Responsibility.
17.42.025 Maintenance Restrictions.
17.42.030 Liability.
17.42.040 Definition.

17.42.010 Policy.

(Amended by Ordinance No. 177124, effective January 10, 2003.)

A. It has been and remains the policy of the City of Portland that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the unimproved street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in this Code and the City Charter.

B. Disputes regarding the condition of the unimproved street are private actions among affected property owners.

17.42.020 Maintenance and Construction Responsibility.

(Amended by Ordinance No. 177124, effective January 10, 2003.) The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

A. The street has been constructed to City standards and specifications; and

B. The City has expressly accepted maintenance responsibility for the street.

17.42.025 Maintenance Restrictions.

(Added by Ordinance No. 177124; amended by 177750, effective August 6, 2003.)

A. Notwithstanding anything to the contrary in this Title 17, residents and property owners are not required to obtain a permit to maintain public streets abutting their properties if those streets have not been accepted for maintenance by the City or any other jurisdictions, provided the following conditions are met:

1. The travel lane width of the unimproved portion of the street remains the same;

2. There is no resulting change in existing drainage patterns outside the public right-of-way;

3. Drainageways located within public rights-of-way are not filled in or otherwise altered in any manner that could impact the flow of water;

4. The materials used for maintaining the street are equivalent to the existing street materials, except that gravel may be used to resurface a dirt road;

5. Asphalt, concrete or other man-made materials may not be applied to existing dirt or gravel surfaces, nor may existing dirt or gravel surfaces be converted to a paved surface;

6. The maintenance activities and resulting condition of the street do not adversely affect surrounding properties;

7. Trees in the public right-of-way are not removed except as provided in Section 20.40.090; and

8. Speed bumps or other types of devices intended to slow traffic are not constructed.

B. The City Engineer retains final authority to regulate all maintenance and construction activities in the public right-of-way, regardless of whether a permit is required or obtained.

C. The City Traffic Engineer retains exclusive authority to establish traffic control devices as provided in Section 16.10.080 and in Section 16.10.200. This includes, but is not limited to, all regulatory, warning, and guide signs, and all types of pavement markings.

17.42.030 Liability.

The owner(s) of land abutting any street that has not been improved to City standards and accepted for maintenance shall be liable for any and all damages to any person who is injured or otherwise suffers damages resulting from the defective condition of the street, or by reason of the property owner's failure to keep the street 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, judgments or settlements, 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 streets.

17.42.040 Definition.

(Amended by Ordinance No. 173369, effective May 12, 1999.) As used in this chapter, the term "street" is defined as provided in Section 17.04.050 of the City Code and includes any drainage facilities associated with the street, and any structures in the dedicated street area. It also includes the run-off from any street where no drainage facilities have been constructed.

Chapter 17.44

STREET OBSTRUCTIONS

(Chapter replaced by Ordinance No. 184957,
effective November 25, 2011.)

Sections:

17.44.010 Unlawful Acts Enumerated.

17.44.010 Unlawful Acts Enumerated.

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

B. It is unlawful for any person to erect or cause to be erected any structure in, over or upon any dedicated street area, except that Director of the Bureau of Transportation may, based on findings of necessity, grant permission for walls, fences and steps, that otherwise comply with the Code of the City. Also, on buildings whose front is located on the property line, the Director of the Bureau of Transportation may allow decorative facings, certain types of utility meters, utility valves, and other utility appurtenances, to extend into the street area an amount that does not interfere with the public use of said street. The Director of the Bureau of Transportation, upon determining a public need for areas occupied by such walls, fences, steps, facings, or utility meter valves and other appurtenances, may revoke said permission and the property owner or utility will be required to remove them from the street area.

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

D. This Section shall not apply to:

1. Any use, sign, or structure for which a permit has been issued or which is erected under authority of any Title;

2. Motor vehicles lawfully parked pursuant to City Regulations;

3. Barricades placed by or with the approval of the Director of the Bureau of Transportation or the Traffic Engineer; nor

4. Temporary closures and occupancies pursuant to this Chapter.

5. Merchandise in the course of delivery may be placed on the sidewalk while actively loading and unloading for not longer than two hours provided that the provisions of City Code Section 14.50.030 Sidewalk Use are complied with.

Chapter 17.45

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 17.46

NEWSRACKS

(Chapter added by Ordinance No. 144772,
effective December 4, 1979.)

Sections:

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17.46.010 Definitions.

(Amended by Ordinance Nos. 165594 and 176585, effective July 5, 2002.)

A. **"Distributor"** shall mean the person responsible for placing and maintaining a newsrack in a public right of way.

B. **"Newsrack"** means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or other news periodicals.

C. **"Mass Transit Avenue"** means those portions of SW/NW Fifth Avenue and SW/NW Sixth Avenue from SW Madison Street to NW Irving Street, and those portions of SW Yamhill Street and SW Morrison Street from SW 1st Avenue to SW 11th Avenue.

D. **"Mall blue"** means the shade of blue used to paint street furniture on Mass Transit Avenues and includes any hue substantially similar to Dark Blue No. 7-0-07873 Endura Shield manufactured by Tnemec Company, Inc.

E. **"Sidewalk"** means any surface provided for the use of pedestrians exclusive of motor vehicles.

F. **"Street"** means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

17.46.020 Newsracks On or Near Mass Transit Avenues.

(Amended by Ordinance No. 184957, effective November 25, 2011.)

A. All newsracks placed on any Mass Transit Avenue shall be installed upon and securely fastened to the City-owned newsrack pedestals located on such avenues.

B. Any newsrack placed on a sidewalk within 20 feet of a Mass Transit Avenue shall be painted "Mall blue."

C. No newsrack shall be installed upon a Mass Transit Avenue unless it is painted "Mall blue" and is substantially similar in design and appearance to the K600 Model manufactured by Berkley-Small Incorporated.

D. No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

E. Each newsrack shall be equipped with a coin return mechanism to permit a person using the machine to secure an immediate refund in the event he is unable to receive the publication paid for. The coin return mechanisms shall be maintained in good working order. This Subsection shall not be applicable to newsracks used for distributing newspapers for free.

F. Each newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and business address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin return mechanism, or to give the notices provided for in this Chapter.

G. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

1. it is reasonably free of dirt and grease;

2. it is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;

3. it is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;

4. the clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;

5. the paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading; and

6. the structural parts thereof are not broken or unduly misshapen.

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

17.46.030 Violations of Ordinance.

(Amended by Ordinance No. 184957, effective November 25, 2011.)

A. Upon determination by the Director of the Bureau of Transportation that a newsrack has been installed, used or maintained in violation of Subsections 17.46.020 A. – G. of this Chapter, an order to correct the offending condition shall be issued to the distributor of the newsrack, if known, and if not, to the publication distributed therein. Such order shall be telephoned and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition and suggest actions necessary to correct the condition. Failure to properly correct the offending condition within 3 days (excluding Saturdays and legal holidays) after the mailing date of the order shall result in the offending newsrack being summarily removed by the Director of the Bureau of Transportation from the Mass Transit Avenues and placed in the nearest sidewalk area where the newsrack would not be in violation of this Chapter. Upon removing any newsrack from a Mass Transit Avenue the Director of the Bureau of Transportation shall provide immediate notification by telephone of the location to which the newsrack has been removed. A copy of such notice shall also be immediately mailed. Any order issued under this Subsection A. may be appealed pursuant to Section 17.46.040, but the filing of an appeal shall not stay the effectiveness of the order.

B. Upon determination by the Director of the Bureau of Transportation that a newsrack has been used, maintained or installed in violation of Subsections 17.46.020 D., E. or G., or Section 17.46.060 an order to correct the offending condition shall be issued to the distributor of the newsrack, if known, and if not, to the publication distributed therein. Such order shall be telephoned and confirmed by mailing a copy of the order, return receipt requested. The order shall specifically describe the offending condition and suggest actions to correct the condition. Failure to properly correct the offending condition within 10 days

after the mailing date of the order shall result in the offending newsrack being summarily removed by the Director of the Bureau of Transportation from the Mass Transit Avenues and placed in the nearest sidewalk area where the newsrack would not be in violation of this Chapter. Upon removing any newsrack form a Mass Transit Avenue, the Director of the Bureau of Transportation shall provide immediate notification of the location to which the newsrack has been removed, by telephone, and copy of such notification shall also be immediately mailed. Any order issued under this Subsection B may be appealed pursuant to Section 17.46.040 and the filing of an appeal shall stay the effectiveness of the order until the Council shall have decided the appeal.

17.46.040 Appeals.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Any person or entity aggrieved by a finding, determination, notice or action taken under the provisions of this Chapter may appeal and shall be appraised of his or her right to appeal to the Council. An appeal must be perfected within 10 days after receipt of notice of any protested decision or action by filing with the Office of the Auditor a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 15 days after receipt of the letter of appeal. Appellant shall be given at least 5 days notice of the time and place of the hearing. The Council shall give the appellant, and any other interested party, a reasonable opportunity to be heard in order to show cause why the determination of the Director of the Bureau of Transportation should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the action taken by the Director of the Bureau of Transportation. At the conclusion of the hearing, the Council shall make a final and conclusive determination.

17.46.050 Director of the Bureau of Transportation Designated Representative.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Director of the Bureau of Transportation as used in this Ordinance shall include his or her designated representative.

17.46.060 Abandonment.

In the event a newsrack remains empty for a period of 30 continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided in Section 17.46.030 B for newsracks in violation of the provisions of this Ordinance.

17.46.070 Penalty.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Any person convicted of intentionally, knowingly or recklessly violating any lawfully issued order of the Director of the Bureau of Transportation by returning a removed newsrack to the area regulated by this Chapter prior to correcting all defects, or of violating Subsection 17.46.020 F. shall be punished upon conviction by a fine of not more than $500.

Chapter 17.48

MOVING BUILDINGS

Sections:

17.48.010 Permit Required.
17.48.020 Application and Fee Deposit.
17.48.030 Moving Permit.
17.48.040 Regulations.
17.48.050 Cutting Wires in Moving Operation.

17.48.010 Permit Required.

(Amended by Ordinance No. 140207, effective Aug. 1, 1975.) It is unlawful for any person to move any building or structure through any street or to occupy any portion of any street for the removal of any building or structure, without first obtaining a permit as provided in this Chapter and paying the fees elsewhere prescribed in Section 17.24.020.

17.48.020 Application and Fee Deposit.

(Amended by Ordinance No. 140207, effective Aug. 1, 1975.) Application for a permit for moving a building or structure shall be in writing, shall state the number of the lot and block upon which the building is located, the size of the building, the number of the lot and block to which it is proposed to remove the same, the route proposed to be taken, the length of time required for moving, and the name of the owner of the building or structure. Each application shall be accompanied by a fee as prescribed in Section 17.24.020. The application fee is nonrefundable and is in addition to the permit issuance fee, which shall be collected prior to the issuance of the permit.

17.48.030 Moving Permit.

(Amended by Ordinance Nos. 140207, 173627, 180917, 182389, 182760 and 184957, effective November 25, 2011.)

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

B. When a building to be moved exceeds three stories in height, any permit for moving shall be issued by the Council by ordinance. The Ordinance shall set forth any conditions upon the moving which may be deemed necessary and which are not provided for in this Chapter, and shall set forth the Director of the Bureau of Transportation's estimate of the cost to the City of issuing the permit,

investigating the application, and supervising the moving, to be paid by the applicant for permit as a part of the fee elsewhere prescribed in Section 17.24.020.

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

D. A moving permit shall not be issued until the applicant has deposited with the Treasurer a sum sufficient, in the judgment of the Director of the Bureau of Transportation, to cover the cost of repairing any and all damage or injury to street or streets, or the improvements therein including street trees, which may result from the moving operation, and also such sums as the Bureau of Transportation and Portland Fire & Rescue, and any other City bureau involved, may require to cover the cost of moving, repairing, restoring or replacing any wires, signals or other properties or installations which may be necessary in preparation for or in consequence of any moving operation. Upon completion of the moving operation, the bureau or bureaus which may have required such deposit and the Director of the Bureau of Transportation shall submit to the Treasurer a statement of the costs of any operations, repairs or replacements occasioned by or as the result of the moving operation, and other information as the Treasurer may request, in order to reimburse the proper account from the money so deposited, and shall authorize the Treasurer in writing to refund the remaining portion of such deposit, if any, to the depositor. If the cost exceeds the amount deposited, the depositor shall promptly reimburse the affected bureau or bureaus for such additional cost.

17.48.040 Regulations.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) The moving of a building or structure under a moving permit shall be continuous day-by-day during all the hours specified by the Director of the Bureau of Transportation until completed, with the least possible obstruction to the streets occupied. It is unlawful for any person moving a building or structure under a moving permit to leave said building or structure or any portion thereof stationary in the street, road or highway area for a period in excess of 2 hours during the hours of the day specified by the Director of the Bureau of Transportation, unless an emergency exists by reason of unforeseen difficulties encountered in cutting wires, trees, or removing obstructions in the course of the route selected. Removal and pruning of trees shall be conducted in accordance with the City Forester's requirements including the need to obtain tree permits. All movement in the street area must be completed within an elapsed time of 36 hours unless application is made for a longer period of time and permission specifically granted therefore by the

Director of the Bureau of Transportation prior to the commencement of any movement; provided, however, that if any unforeseen difficulties are encountered and an extension of time necessitated thereby is requested from the Director of the Bureau of Transportation prior to the expiration of 36 hours from the commencement of the moving operation, the Director of the Bureau of Transportation may extend the 36 hour time by specific additional time as deemed necessary.

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

17.48.050 Cutting Wires in Moving Operation.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) When overhead wires in any street designated in a permit for moving a building or structure will interfere with the moving operation, the permittee shall give to the owner of the wire, including the City when it is the owner, 48 hours notice of intent to have the wire temporarily removed. The permittee shall pay in advance or tender to the owner, other than the City, the amount estimated to be necessary to remove the wire and replace the same. When the City owns the wire, the cost of temporary removal and replacement shall be included in the requirement for deposit prerequisite to permit, as provided in this Chapter. If the permittee disputes the amount demanded by the owner as the advance or tender, the amount shall be determined by the Director of the Bureau of Transportation. The permittee of a moving permit shall pay the actual expense of removing and replacing the wire, and as soon as the actual expense can be determined the permittee shall immediately pay any deficit and the owner shall refund any surplus to him or her. Upon receipt or tender of the amount estimated or the amount fixed by the Director of the Bureau of Transportation in case of dispute, the owner of the wire shall remove it in time to permit the passage of the building or structure without unnecessary delay.

Chapter 17.52

TREES

(Chapter replaced by Ordinance No. 134329,
effective May 8, 1972.)

Sections:

17.52.010 Clearances.
17.52.020 Sidewalks to be Kept Cleaned of Leaves and Organic Matter.
17.52.030 Interference with Sewer by Tree Roots.
17.52.040 Curb or Sidewalk Damage from Ornamental Trees.
17.52.050 Tree Tubs.
17.52.060 Trimming For or By City.

17.52.010 Clearances.

(Amended by Ordinance Nos. 138415, 173369, 177028 and 184957, effective November 25, 2011.) It is unlawful for owners or occupants to permit any tree upon or in front of their premises, to interfere with or come in contact with wires belonging to the City, or to permit the branches of such trees to be less than 7-1/2 feet above the sidewalk, or 11 feet above the roadway; provided, however, that on any street which is designated as a Regional Trafficway, Major City Traffic Street, or a District Collector, or a one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height of 14 feet above the crown of the street. Whenever the Director of the Bureau of Transportation finds that a condition prohibited by this Section exists, the condition is a public nuisance. In addition to the penal enforcement of this Title, the Commissioner of the department under whom the Office of the Director of the Bureau of Transportation is administered may take steps in accordance with the procedures set forth in Title 29 concerning abatement of nuisances, including assessment of cost of abatement against the property on which or in front of which the tree is located.

17.52.020 Sidewalks to be Kept Cleaned of Leaves and Organic Matter.

It is the duty of the occupants of the premises or the owner of such premises, if the same is unoccupied, to keep the sidewalk clean from branches, leaves, flowers, fruit or other organic matter fallen thereon.

17.52.030 Interference with Sewer by Tree Roots.

(Amended by Ordinance Nos. 173369, 182760 and 184957, effective November 25, 2011.) Roots of any tree in dedicated street area which have entered any sewer, drain or house connection in the street area, or roots of any tree which have entered any sewer, drain or connection in a City-owned sewer easement, and which are stopping, restricting or retarding the flow of sewage or drainage, are hereby declared to be a public nuisance. Whenever the Director of the Bureau of Environmental Services finds that such condition

appears to exist, the Commissioner of the department under whom the Office of the Director of the Bureau of Environmental Services is administered shall take steps in accordance with the procedure set forth in Title 29 concerning abatement of nuisances, including assessment of costs of abatement against the property abutting the street area and owning the tree. As a part of the abatement, reasonable steps shall be taken to prevent future root entry and interference with the flow of sewage or drainage. If the Director of the Bureau of Environmental Services believes that only removal of the tree will reasonably prevent future root entry into the sewage or drainage facility, the Director of the Bureau of Environmental Services shall so notify the owner and the Director of the Bureau of Parks and Recreation. Thereupon if the Director of the Bureau of Parks and Recreation concurs with the determination that the removal is necessary, and the owner has not removed the tree, the Director of the Bureau of Environmental Services shall require the tree to be removed as a part of the nuisance abatement and the notice to abate shall so state. A permit for removal shall be obtained, by the owner removing the tree, from the Bureau of Parks and Recreation, as provided in this Chapter.

17.52.040 Curb or Sidewalk Damage from Ornamental Trees.

(Amended by Ordinance No. 184957, effective November 25, 2011.) When the curb or sidewalk, or both, abutting any land becomes damaged or in a state of disrepair because of an ornamental tree maintained by the property owner, the repair of the curb or sidewalk, or both, shall be treated as other curb or sidewalk repairs in accordance with the provisions of this Title. The removal of any tree or portion thereof as the Director of the Bureau of Transportation may determine necessary, shall be deemed a part of the curb or sidewalk repair.

17.52.050 Tree Tubs.

(Amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) Any person desiring to place a tub or receptacle for a tree or shrub on top of the paved or hard surfaced portion of street area shall first apply to the Director of the Bureau of Transportation for a permit. The permit may be issued by the Director of the Bureau of Transportation under such safeguards and conditions as the Director of the Bureau of Transportation and the City Attorney may find necessary or appropriate to protect the public safety and to protect the City against claims of liability. The permit may be revoked by the Director of the Bureau of Transportation for any violation of conditions or terms of the permit, or for neglect of the plantings or abandonment of use. After revocation, it is unlawful for the permittee or permittee's successor in Title to the abutting property to allow the tub or receptacle to remain in street area.

17.52.060 Trimming For or By City.

(Added by Ordinance No. 156125; effective June 13, 1984.) In maintaining its utility system, the City may trim or cause to be trimmed any tree which interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system. The person remedying the condition shall be authorized to enter the premises for that purpose.

Chapter 17.56

PUBLIC UTILITIES

Sections:

17.56.005 Definitions.
17.56.010 General Bond.
17.56.020 Plans for Underground Construction by Franchise Holder.
17.56.030 Monthly Payments by Utility Companies.
17.56.050 Poles or Wires in Public Area.
17.56.060 Relocation and Discontinuation of Facilities.
17.56.070 Placement of Overhead Wires.
17.56.080 Service Shutoff Outside Premises.
17.56.090 Control of Electrical Currents.

17.56.005 Definitions.

(Added by Ordinance No. 184957, effective November 25, 2011.) For the purposes of this Chapter, "public utility" includes any person that installs, constructs, reconstructs, repairs, alters or maintains facilities for the distribution, transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications, or other services, together with any associated wires, cables, poles, conduits, appliances or apparatus in, on, over, through or in any manner beneath the surface of the streets and that person currently possesses a franchise or privilege granted by the City of Portland or is a City bureau charged with providing such service to the public.

17.56.010 General Bond.

(Amended by Ordinance No. 173369, effective May 12, 1999.) In cases where the City has granted or may hereafter grant revocable permits to a railway company or other public utility for the use of streets, alleys, or public places, the grantee instead of filing a bond or bonds for the faithful performance of the conditions and obligations in any permit prescribed, may file with the city Auditor its written undertaking in the penal sum of $5,000, without sureties, duly executed by the company under its corporate seal, whereby it shall undertake generally and agree to keep and perform the duties, obligations, and conditions of all revocable permits for the use of public streets, alleys, or public places then held or that may thereafter be granted to or held by it, and particularly that it will comply with all requirements thereof for paving, repairing, or otherwise improving streets and sidewalks and for the removal of its property and restoration of the portions of the streets, pavements, or sidewalks, according to the terms and conditions of the permits respectively.

17.56.020 Plans for Underground Construction by Franchise Holder.

(Amended by Ordinance Nos. 151100, 176555 and 184957, effective November 25, 2011.) Any person conducting a business within the City under a City franchise or permit, giving to such person the right to construct underground conduits or to lay pipes underground, shall, before entering upon any street for the purpose of cutting into, digging trenches in, or opening any street preparatory to the construction of any conduit or to the laying of any pipes, wires, or cables, file with the Director of the Bureau of Transportation detailed plans and specifications of all the proposed construction work. Such plans shall be drawn to a scale prescribed by the Director of the Bureau of Transportation and such specifications shall state the manner of construction and the kind of materials proposed to be used. If the plans and specifications are satisfactory to the City Engineer, the Director of the Bureau of Transportation shall issue a permit to the person filing them to construct the work. If the City Engineer does not approve the plans or specifications or orders changes made therein, the person submitting them shall comply with the City Engineer's requirements and shall file new plans and specifications which are satisfactory to the City Engineer. If these are approved by him or her, the person may then obtain a permit and proceed with the construction of the work. If in the performance of the work it becomes necessary to deviate from such plans and specifications, deviation shall not be made until first approved by the City Engineer.

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

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

17.56.030 Monthly Payments by Utility Companies.

Public utility companies may pay once a month for permits issued under this Title, but such payments shall be made on or before the 15th day of each month following the month in which the permits were issued.

17.56.040 Permits in Certain Areas.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

17.56.050 Poles or Wires in Public Area.

It is unlawful for any person to erect any pole or to stretch wires or cables in, under or over any street, park, public way or public ground for any purpose whatsoever, unless a City permit or franchise therefor has first been granted by the Council.

17.56.060 Relocation and Discontinuation of Facilities.

(Replaced by Ordinance No. 184957, effective November 25, 2011.)

A. Relocation of Facilities

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

a. The construction, repair, maintenance or installation of any City improvement or other public improvement in or upon the public rights-of-way, whether a public work by the City or its contractor or the construction, repair, maintenance or installation of a public improvement pursuant to the requirements of the City's development code;

b. The operations of the City or any governmental entity in or upon the public rights-of-way for governmental purposes; or

c. When required by the public interest, as determined by the Director of the Bureau of Transportation.

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

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

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

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

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

17.56.070 Placement of Overhead Wires.

Any public utility erecting, placing, or maintaining in the City any overhead wire or cable shall affix or attach the wire or cable in compliance with State regulations, in conformity with the best engineering practice, and at a height and in a manner to protect the public safety.

17.56.080 Service Shutoff Outside Premises.

When so required by the occupant of premises, or if the premises are unoccupied, whenever requested by the owner, a public utility shall shut off or disconnect its service facilities outside and away from the building or structure previously served, unless the facilities are an integral part of the building or structure.

17.56.090 Control of Electrical Currents.

It is unlawful for any person using or employing electrical current to fail or neglect to provide and put in use such means, appliances and apparatus as will, so far as practicable, control and effectually contain the current or energy in isolated paths and on their own wires, conductors or structures, so as to prevent damage or injury through discharge to ground to City pipes and structures and the pipes or structures of others. It is unlawful for any person using or employing electrical current to fail to take such measures as are necessary and appropriate to prevent contribution to injury or damage to pipes or structures belonging to the City or others. Conviction for violation of this Section shall not take away or abridge the right of the City or any other person to damages for injury to its pipes or other structures resulting from escape of electrical current.

17.56.100 Preservation of Cobblestone.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

Chapter 17.60

UNDERGROUND WIRING DISTRICTS

Sections:

17.60.010 Designated.
17.60.020 Overhead Wires Prohibited.
17.60.030 Application for Permit.
17.60.040 Designation of Space.
17.60.050 Filing Plans and Specifications.
17.60.060 Issuance of Permit.
17.60.080 Restoration of Streets and Public Use Easements.
17.60.090 Use of Sidewalk Space and Building Fronts.
17.60.100 Location Maps.
17.60.110 Exemptions.
17.60.120 Joint Use of Conduits.

17.60.010 Designated.

(Amended by Ordinance Nos. 162574 and 184957, effective November 25, 2011.) The following described districts designated as "District A," "District B," "District C," "District D," "District E" and "District F" mean and include the following streets in the City:

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

District B: East Burnside Street, SE Morrison Street and SE Hawthorne Boulevard, from the east line of SE and NE 3rd Avenue to the west line of SE and NE 6th Avenue; and also those portions of other streets parallel thereto lying between the south line of NE Couch Street and the south line of SE Hawthorne Boulevard which are included between a line drawn 100 feet east of and parallel to the east line of SE and NE Grand Avenue; and a line drawn 100 feet west of and parallel to the west line of SE and NE Grand Avenue; and SE Grand Avenue, from the south line of NE Couch Street to the south line of SE Hawthorne Boulevard; it being provided, however, that any crossings over streets

in this District which were installed before January 1, 1950 shall be permitted to remain; and it being further provided that additional machine-turned wooden street light poles and overhead wires for street lighting shall be permitted in said District, if approved by the Director of the Bureau of Transportation.

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

District D: Beginning with the intersection of the center line of SW 4th Avenue and the north line of SW Market Street, running thence easterly along said north line of SW Market Street to its intersection with the center line of SW Harbor Drive; thence southerly along said center line of SW Harbor Drive to its intersection with the south line of SW Arthur Street; thence westerly along said south line of SW Arthur Street to its intersection with the center line of SW Barbur Boulevard; thence northerly along said center line of SW Barbur Boulevard and along the center line of SW 4th Avenue to the place of beginning.

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

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

17.60.020 Overhead Wires Prohibited.

(Amended by Ordinance Nos. 162574 and 184957, effective November 25, 2011.)

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

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

17.60.030 Application for Permit.

(Amended by Ordinance Nos. 159491 and 184957, effective November 25, 2011.) Any person owning a franchise or privilege to erect, construct, or maintain wires, cables, poles, vaults, manholes and other structures, appliances or apparatus on, over, or by means of which electric current is transmitted or used for any purpose in any portion of an underground wiring district, who desires to install, construct, reconstruct, repair, alter or maintain the same shall file with the Director of the Bureau of Transportation an application for a permit to install or maintain the facilities in trenches, conduits, structures or subways beneath the surface of the streets or parts thereof within the underground district as required. The application shall be accompanied by the agreement of the applicant promptly to repave and repair any of the streets or portions thereof which are disturbed or undermined by the applicant as the result of exercise of the permit, if granted, the repaving and repair to be made in compliance with the provisions of this Title.

17.60.040 Designation of Space.

(Amended by Ordinance Nos. 159491, 162574 and 184957, effective November 25, 2011.)

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

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

17.60.050 Filing Plans and Specifications.

(Amended by Ordinance Nos. 159491 and 184957, effective November 25, 2011.) The applicant for permit shall file with the Director of the Bureau of Transportation plans and specifications for an underground system for conduction of current or energy in trenches, conduits or subways for wires, cables, and appliances including the necessary vaults, manholes and service boxes, and in addition thereto shall file a map showing the general route and location of the trenches, conduits or subways.

17.60.060 Issuance of Permit.

(Amended by Ordinance Nos. 159491, 162574 and 184957, effective November 25, 2011.) Subject to payment of the applicable fees prescribed in Chapter 7.12, if the City Engineer finds that the application and the plans, specifications and route map filed are satisfactory, the Director of the Bureau of Transportation may approve the same and issue to the applicant a permit to enter upon the designated streets, public use easements designated in Section 17.60.010 or parts thereof in an underground wiring district, to make such excavation therein, as may be necessary to construct conduits or subways, to lay wires, cables and appliances therein, and to build vaults, manholes or service boxes underground within the space theretofore designated. It is unlawful to make any excavation in any street or public use easement designated in Section 17.60.010 to install underground facilities, without a permit from the Director of the Bureau of Transportation and paying the fees set forth in Section 17.24.020. All excavation work and restoration pursuant to the permit shall be under the general supervision of the Director of the Bureau of Transportation and shall be made only after notice to the Director of the Bureau of Transportation.

17.60.070 Emergency Repair.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

17.60.080 Restoration of Streets and Public Use Easements.

(Amended by Ordinance Nos. 162574 and 184957, effective November 25, 2011.) Upon the installation and completion of any underground system of wires and appliances, the person installing the same shall restore the surface of all pavements, improvements, landscaping and foundations thereof which were disturbed or undermined, in as good order and condition as they were prior to the installation, in accordance with the plans and specifications and as directed by and to the satisfaction of the Director of the Bureau of Transportation.

17.60.090 Use of Sidewalk Space and Building Fronts.

(Amended by Ordinance No. 184957, effective November 25, 2011.) Any person owning or operating underground wires, conduits, or subways in compliance with this Chapter may connect the same with the side lines of the street, if approved by the Director of the Bureau of Transportation, and to that end, may use the space under the streets and sidewalks as may be necessary or convenient, and may also have access to all

area-ways under sidewalks, and may place and maintain such wires, cables and appliances in proper conduits in and through such area-ways or spaces. If wires or cables are run up the sides or in front of any building, such wires or cables shall be placed in proper enclosures as are required by the relevant state and local regulations governing the placement of such wires or cables to prevent danger to life or property. If there are no relevant regulations the Director of the Bureau of Transportation may establish such requirements as he or she determines necessary to prevent danger to life or property. No wire, cable or the supports therefor shall cross any window or opening in any building.

17.60.100 Location Maps.

(Amended by Ordinance Nos. 162574 and 184957, effective November 25, 2011.) Every person to whom a permit has been granted pursuant to this Chapter shall, upon completion of the installation of underground wires, cables, and appliances, file with the Director of the Bureau of Transportation maps, in a scale and format determined by the Director of the Bureau of Transportation, showing the location of the conduits or subways, wires, cables, vaults, manholes, and service boxes under said streets or within said public use easements designated in Section 17.60.010 or parts thereof. The Director of the Bureau of Transportation shall maintain a record thereof.

17.60.110 Exemptions.

(Amended by Ordinance Nos. 155775, 173627, 182389 and 184957, effective November 25, 2011.) The provisions of this Chapter with respect to underground construction or installation shall not apply to the following:

A. Wires, poles, and appliances for lighting the streets of the City under contract with the City, or under private contract, connected with wires or cables in underground conduits or subways of a public utility; but all wires for street lighting above the surface of the streets shall be placed inside or on the outside of poles used in connection with such street lighting as directed by the City and shall be connected underground from the foot or base of the respective poles directly with the nearest wires or cables placed in such conduits or subways; provided that wires for street lighting if put on the outside of poles shall be placed in proper enclosures so as not to be dangerous to life or property, excepting, however, wires above the ground connecting the poles and the wires thereof with the light fixture on the pole.

B. Traffic signal installations made and maintained by the City. When deemed appropriate by the City Traffic Engineer agreements may be made with private property owners permitting attachment of traffic signal installations to privately owned buildings, and the Commissioner In Charge of the Bureau of Transportation is authorized to enter into or to approve agreements relating thereto, such agreements having first been approved as to form by the City Attorney. The agreements made prior to passage hereof are hereby ratified and confirmed.

C. Wires, cables, and appliances for electric signs, advertisements, and decorative lighting, connected with wires or cables in underground conduits or subways of a public utility; provided that all such wires for electric signs, advertisements, and decorative lighting shall be carried from or connected with the building, and if such wires are placed on the sides or front of any such building, they shall be placed in proper enclosures so as not to be dangerous to life or property, and the wires shall be connected underground from the foundations or basement of the respective buildings directly with the nearest wires or cables placed in such conduits or subways. No wire for electric signs, advertisements, or decorative lighting shall cross any street above ground.

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

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

17.60.120 Joint Use of Conduits.

Nothing in this Chapter shall be construed to prevent or impair any agreement between or among persons affected by this Chapter designed to provide for joint ownership, control, or use of conduits or subways.

17.60.130 Special Control Districts.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

17.60.140 Conversion to Underground Wiring Within Control Districts.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

17.60.150 Service Entrance Requirements in Control Districts.

(Repealed by Ordinance No. 184957, effective November 25, 2011.)

Chapter 17.64

PROTECTION OF CITY OWNED TELECOMMUNICATIONS LINE AND EQUIPMENT, STREET LIGHTING AND TRAFFIC SIGNAL SYSTEMS.

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

Sections:

17.64.010 Interference With.
17.64.020 Permit for Interference.
17.64.030 Supervision and Expense of Work.
17.64.040 Use of City Poles or Posts.

17.64.010 Interference With.

(Amended by Ordinance No. 173369, effective May 12, 1999.) It is unlawful for any person to interfere with, obstruct, change, injure, impair, or remove any pole, post, wire, cable, conduit, box, gong, or other City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems, except as hereinafter provided.

17.64.020 Permit for Interference.

(Amended by Ordinance Nos. 173369, 173627, 181483 and 182389, effective January 2, 2009.) It is unlawful for any person to remove, temporarily or otherwise, or to change any part of the wire or cable or any pole or post or any facility belonging to or appertaining to City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems of the City without first obtaining a written permit therefor. A person finding it necessary in the pursuit of a lawful purpose to remove, interfere with, or disturb any portion of City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems shall give, or cause to be given, to the Director of Communications and Networks, OMF Business Operations Division or, for street lighting issues, to the Bureau of Transportation, a notice in writing, at least 2 hours before it shall be necessary to interfere with or disturb any portion of such systems, stating the locality at which, and in the manner in which it shall be necessary to remove, interfere with, or disturb the system involved. No notice shall be given between the hours of 4 p.m. and 8 a.m. The City may issue a permit for the interference if they find that the interference is necessary, and may restrict the work or the time of the interference. The permit shall specify fully the change required and any restrictions thereon. Any person aggrieved by the decision may appeal such decision to the City Council by filing notice thereof in writing with the City Auditor. No permit shall be required for emergency repairs by a public utility necessitating interference with City

system, equipment or apparatus, but the City as its respective jurisdictions may appear, shall be notified as soon as possible and the public utility shall make any further changes required.

17.64.030 Supervision and Expense of Work.

All work done by or for a permittee under this Chapter shall be performed under the supervision of and completed to the satisfaction of the permitting official. All work done under a permit issued pursuant to this Chapter shall be at the sole expense of the permittee, and if the City is requested to do such work the fees applicable shall be as prescribed in the finance regulations.

17.64.040 Use of City Poles or Posts.

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

A. It is unlawful for any person to attach any animal, or to affix or attach any bill, sign, advertisement of any kind, or any contrivance or device of any kind or nature other than City official notices, to any pole, post, wire, cable, fixture or equipment of City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems, except as authorized by the City.

B. Public utilities operating in the City under franchise or permit may attach their utility wires or cables to poles or posts of City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems, to the extent specifically permitted by the City, in such locations as the City may specifically designate, in consideration of reciprocal privileges extended to the City when necessary or convenient for the City to use the poles of the utility in maintaining the City systems.

Chapter 17.68

STREET LIGHTS

Sections:

17.68.010 Injuring or Destroying.
17.68.020 Private Street Lighting.
17.68.030 Design Requirements for Special Street Lighting Districts.
17.68.040 Requirements for Lights on New or Reconstructed Streets.
17.68.050 Street Light Removal and Relocation.

17.68.010 Injuring or Destroying.

(Amended by Ordinance Nos. 153667 and 182760, effective June 5, 2009.) It is unlawful for any person to cut, break, injure, destroy or deface any pole, post, standard, tower, lamp, wire, cable, conduit, fixture, appliance or appurtenance erected, constructed or used for the public lighting or the City, whether owned by the City or by any public utility contracting with the City for public lighting. Any person injuring or destroying street lighting facilities shall repair and/or replace them in accordance with current design standards and the approval of the Bureau of Transportation. All costs shall be paid by the person that injures or destroys the street lighting facilities.

17.68.020 Private Street Lighting.

(Amended by Ordinance Nos. 140207, 153667, 173627 and 182389, effective January 2, 2009.)

A. It is unlawful for any person to erect or maintain any lamp post, standard, or fixed light in or upon any street or public place except by the authority of written permit issued by the Commissioner In Charge of the Bureau of Transportation and in compliance with the provisions and requirements of this Section and paying the fee as prescribed in Section 17.24.020.

B. Any person desiring a permit to erect and maintain a lamppost, standard or fixed light on any street or public place may make written application to the Commissioner In Charge of the Bureau of Transportation. The application shall state the exact location of such post or light, the name of the street and the number of the building, the number or other designation of the lot and block or parcel of land in front of which the post, standard or light is to be erected and maintained, and complete specifications of the lamp post, standard or light the applicant proposes.

C. Private street lights shall be separated by not less than 40 feet on the same side of any street unless a lesser distance is approved by the Bureau of Transportation

and by the City Engineer because of particular design and environmental requirements. The height above the street grade and the exact location must be approved by the Bureau of Transportation and by the City Engineer before issue of the permit.

D. Private lighting will be in addition to, not in lieu of, publicly owned lighting on the right-of-way. This condition is necessary in order to guarantee that the right-of-way is lit to a level sufficient to maintain public safety, and that there be no interruption in the service due to absence, cutbacks, or other circumstances effecting the permittee.

E. All private lamp posts, standards and lights shall at all times be kept in good repair and working order at the expense of the permittee.

F. A private street light permit issued under this Section shall be revocable for any of the following grounds:

1. Interference with a projected local or public improvement or

2. Failure to repair or properly maintain the light post or standard or light within 10 days after notice so to do by the Commissioner In Charge of the Bureau of Transportation or by the Bureau of Police.

G. Within 30 days after revocation of a private street light permit, the owner or person responsible for maintaining it shall remove the light and all appurtenances. Failure so to do shall be a violation of this Title. The City Engineer or Director of the Bureau of Transportation may authorize the removal of the private street light if not removed within the said 30 days, and the cost of removal shall be recoverable from the owner or person responsible for maintaining the same in a civil action.

17.68.030 Design Requirements for Special Street Lighting Districts.
(Amended by Ordinance Nos. 153667, 155955, 173627 and 182389, effective January 2, 2009.)

A. All street lights within the City of Portland shall be a standard overhead fixture except in areas where it is determined by the Commissioner In Charge of the Bureau of Transportation that specialty lighting would substantially enhance a unique characteristic of the district.

B. Design, location, plans and specifications for a special street lighting system to be installed or altered as a local improvement, shall be first approved by the Bureau of Transportation.

C. Establishing the source of funding necessary for the acquisition and installation of specialty lighting is the responsibility of the person(s) requesting the special lighting district to be established or altered and must be approved by the lighting manager.

D. When a specialty lighting system needs major refurbishing or replacement, the City will pay up to 50 percent of the cost of replacing City owned specialty light fixtures with the same style fixture when:

1. The lights are part of an historical structure that is included on the National Register of Historic Places and designated as an Oregon Historic Landmark and a Local Landmark, and removal or changes in the lighting would jeopardize the structure's historical status, or

2. The light fixtures themselves are included on the National Register of Historic Places and designated as an Oregon Historic Landmark and a Local Landmark.
In other cases the City will pay for replacing the specialty light fixtures with a similar but readily available fixture.

17.68.040 Requirements for Lights on New or Reconstructed Streets.
(Added by Ordinance No. 153667; amended by Ordinance No. 182760, effective June 5, 2009.)

A. All new or reconstructed streets in the City associated with either privately or publicly funded projects must be provided with street lights corresponding to City lighting standards.

B. Design, plans and specifications for streetlights to be installed or altered shall be first approved by the Bureau of Transportation.

C. The full cost of providing the street lighting improvements shall be paid by the permittee or funding source used for the street construction costs.

17.68.050 Street Light Removal and Relocation.
(Added by Ordinance No. 153667, effective Sept. 12, 1982.)

A. All costs associated with the removal of streetlights on street being vacated shall be paid by the person petitioning for the vacation.

B. All costs associated with the removal or relocation of street light facilities to accommodate work in accordance with a public improvement permit shall be paid by the permittee.

C. All costs for relocation of streetlights to complete work in local improvement districts shall be assessed as part of the project.

Chapter 17.72

PARKING LOTS

(Repealed by Ordinance No. 177028,
effective December 14, 2002.)

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.

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 17.82

LAND DIVISIONS

(New Chapter added by Ordinance No. 176555, effective July 1, 2002).

Sections:

17.82.010 Administration.
17.82.020 Streets and Alleys.
17.82.030 Partial Width Streets.
17.82.040 Access Control Strips.
17.82.045 Driveway Access Plans.
17.82.050 Temporary Turnarounds.
17.82.060 Public Utility Easements.
17.82.070 Improvements in Land Divisions.
17.82.080 Improvement Procedures for Land Divisions.
17.82.090 Agreement for Construction of Public Improvements.

17.82.010 Administration.

In addition to other regulations in this Title, land divisions must comply with the regulations herein.

17.82.020 Streets and Alleys.

(Amended by Ordinance No. 180917, effective May 26, 2007.) Public streets and public alleys shall conform to the requirements of the City Engineer for elements, widths, intersection location, grades, curves, materials and construction. If necessary, construction and slope easements may be required.

Public Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall be less than 80 degrees unless the City Engineer has approved a special intersection design.

As far as is practical, public streets other than minor streets shall be in alignment with existing streets by continuation of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction.

Intersecting public alleys shall be avoided, and sharp changes in alley alignment shall be avoided, but where necessary, the corners shall be widened sufficiently to permit safe vehicular movement. Dead-end public alleys shall be avoided, but where unavoidable, turnaround facilities as determined by Portland Fire & Rescue and the City Engineer shall be provided.

Where a private street or private alley accesses the public right-of-way, the location and width of the access shall conform to 17.28.110 Driveways – Permits and Conditions.
Land divisions shall provide for the continuation or appropriate projection of existing arterial or collector streets in the surrounding area unless otherwise approved by the City Engineer.

17.82.030 Partial Width Streets.

Partial width streets are public streets where right-of-way dedicated to the public is of insufficient width to accommodate all standard improvements for a full street. Partial width rights-of-way should be considered only when alignment or existing improvements make a full street impractical. Partial street dedications must be approved by the City Engineer to ensure that the partial width called for accommodates access and provides adequate area for construction as needed.

17.82.040 Access Control Strips.

Access control strips, also known as reserve strips, are tracts of land conveyed to the City in fee. The strips are one foot in width and run for the length designated by the City Engineer. Access control strips may be required along public rights-of-way to restrict access until a street is fully developed. When new rights-of-way are being created, the access control strip will be located within the area intended to serve as right-of-way when the street is fully developed. Required access control strips must be shown on the land division plat. The City Engineer may convert access control strips to public right-of-way when there is no longer a need for access control.

17.82.045 Driveway Access Plans.

(Added by Ordinance No. 182760, effective June 5, 2009.) The City Engineer may require that future driveway locations be identified on plans submitted with the land division. The City Engineer may impose conditions of approval as appropriate and necessary regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated stormwater management, reduce pedestrian conflicts, and enhance the pedestrian environment. The City Engineer may require access easements to facilitate joint or shared use of a driveway consistent with Chapter 17.28.

17.82.050 Temporary Turnarounds.

The City Engineer may require temporary turnarounds on public streets that are intended to be extended in the future. An easement for public use must be provided for the turnaround.

17.82.060 Public Utility Easements.

Easements for public utilities may be required by the City Engineer adjacent to public rights-of-way. Where used, public utility easements shall be a minimum of 10 feet in

width unless otherwise specified by the City Engineer. Public utility easements required by the City Engineer shall be shown on the land division final plat.

17.82.070 Improvements in Land Divisions.

(Amended by Ordinance Nos. 176955 and 182760, effective June 5, 2009.) The following improvements shall be installed at no cost to the public:

A. Streets: Public streets and public alleys within or adjacent to the land division shall be improved in accordance with the requirements of the City Engineer. Street inlets shall be installed and connected to storm sewers or other approved drainage facilities.

B. Public pedestrian and bicycle connections, within the Land division site and located in public right-of-way or easements dedicated to the City shall be improved in accordance with the requirements of the City Engineer.

C. Storm sewers and drainageways: Storm sewers and drainageways shall connect the Land division site to an approved drainage system (as defined in 17.38.030) within or outside the Land division site as approved by the Chief Engineer of the Bureau of Environmental Services or the Bureau of Development Services. Design of these systems shall comply with the Bureau of Environmental Services Stormwater Management Manual and the Bureau of Environmental Services Design Manual.

D. Sanitary sewers: Sanitary sewers shall be installed to serve the Land division by extension of existing City sewers. In the event that the Chief Engineer of the Bureau of Environmental Services determines that it is impractical to connect the Land division site to the City sewer system, the Land division may be approved with a private disposal system which has been approved by the State's Department of Environmental Quality and the Bureau of Development Services.

E. Electrical and other wires in the public right-of-way: Electrical distribution laterals and other primary and secondary lines and other wires serving the Land division, including but not limited to communication, street lighting and cable television, shall be placed underground. The developer shall make necessary arrangements with utility companies or other appropriate persons for the installation of underground lines and facilities. This ordinance shall not apply to temporary utility service facilities during construction, or to utility transmission lines operating at 50,000 volts or above.

F. Street lighting for public rights-of-way: Street lighting shall be provided as approved by the City Engineer and shall include conduits, wiring, bases, poles, arms and fixtures as required by the City Engineer to provide a complete system.

17.82.080 Improvement Procedures for Land Divisions.

Improvements installed by a land divider in the public right-of-way shall conform to the requirements of this Title and to improvement standards of the City Engineer, and shall be installed according to the following procedure:

A. All public and local improvements to be placed in the public right-of-way shall meet the design requirements of the City Engineer. In addition, if the improvement also includes storm and sanitary systems, the improvement shall also meet the design requirements of the Chief Engineer of the Bureau of Environmental Services.

B. All improvements to be placed in the public right-of-way are subject to approval of the City Engineer through a street improvement permit, street use permit or other revocable permit from the City Engineer.

C. Public and local improvement work shall not commence until a permit has been issued by the City Engineer, and County Engineer, if work is to be undertaken that involves an area under county jurisdiction, such as a county road. If such work is discontinued for any reason it shall not be resumed until after the City Engineer is notified.

D. Street improvements, that are public or local improvements, shall be constructed under the inspection and to the satisfaction of the City Engineer. Public sanitary and storm systems shall be constructed under the inspection and to the satisfaction of the Chief Engineer of the Bureau of Environmental Services.

E. Underground utilities, street lighting facilities, sanitary sewers, storm drains and water mains installed in a public roadway shall be constructed prior to the surfacing of the roadway. Stubs for service connections for underground utilities shall be placed according to the plans and specifications approved by the City Engineer. Stubs for public sewer and storm systems shall also be approved by the Chief Engineer of the Bureau of Environmental Services

17.82.090 Agreement for Construction of Public Improvements.

The land divider shall complete all required minor public street improvements (Sidewalk and curb work where engineering is not required to establish line or grade) prior to City Engineer approval of the land division final plat unless otherwise allowed by the City Engineer. The land divider shall complete permit applications for other public improvements prior to City Engineer approval of the land division final plat.

Chapter 17.84

STREET VACATIONS

(Chapter amended by Ordinance No. 184957,
effective November 25, 2011.)

Sections:

17.84.010 Plat Must Be Filed.
17.84.020 Fees.
17.84.030 Preliminary Consideration of Petition.
17.84.040 Bond or Cash Deposit.
17.84.050 Statutory Procedures Applicable.
17.84.060 Consent to Vacation for City as Owner.
17.84.065 Vacation on Council's Own Motion; Notification.

17.84.010 Plat Must Be Filed.

No vacation of a street, public place or plat shall become effective until the ordinance providing for the vacation and a plat, as provided by law, has been filed in the office of the county clerk of the county where the street, public place or plat is located. The cost of the filing and the preparation of the plat shall be paid by the person petitioning for the vacation.

17.84.020 Fees.

(Replaced by Ordinance No. 172859; amended by Ordinance No. 184957, effective November 25, 2011.)

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

B. When a completed petition is presented to the City Auditor for filing and consideration by the Council, the person presenting the petition for the vacation shall pay to the City Auditor a fee, established by the Director of the Bureau of Transportation, to cover the estimated costs of processing the petition. All departments or bureaus involved in processing a vacation shall keep records of the costs incurred on each individual vacation proceeding and shall submit such costs to the Director of the Bureau of Transportation prior to passage of the vacating ordinance. If the actual cost of advertising and expenses, and all processing costs,

including employee salaries and applicable overheads, related to the vacation exceed the fee collected, a sum sufficient to cover all such costs shall be collected before the vacation is completed, and payment thereof shall be a condition of the vacating ordinance.

C. The Council, upon hearing the petition, may grant the same in whole or in part or deny it in whole or in part, and may make reservations or conditions as appear to be in the public interest. The reservations or conditions may pertain to:

1. The maintenance and use of underground public utilities or service facilities in the portion vacated;

2. Limitations on use of the area above and adjacent to underground utilities or service facilities;

3. Moving at petitioner's expense of utility or service facilities either below, on or above the surface;

4. Construction, extension or relocation of sidewalks and curbs;

5. Grading or pavement extensions;

6. Dedication for street use or other area in lieu of the area to be vacated;

7. Replat; and

8. Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner's property, or area dedicated in lieu of the vacation area.

17.84.030 Preliminary Consideration of Petition.

(Replaced by Ordinance No. 182760; Amended by Ordinance Nos. 184046 and 184957, effective November 25, 2011.) Pursuant to ORS 271.080 through 271.100, when a petition for the vacation of a street, public place or plat is presented to the City, the Auditor shall review the petition as provided by the statues, and shall submit the petition to the Commissioner-in-Charge of the Bureau of Transportation, the Director of the Bureau of Transportation and Bureau of Planning and Sustainability for review. The Commissioner in charge of the Bureau of Planning and Sustainability shall refer the petition to the Planning and Sustainability Commission for action. The Commissioner in charge of the Bureau of Planning and Sustainability shall prepare a report to Auditor containing the findings and recommendations of the Planning and Sustainability Commission and Director of the Bureau of Transportation, and shall submit the report and petition to Council for consideration. The report may include recommended conditions of approval. Upon receiving the report of the Commission, the Auditor shall

file the petition and forward the petition and Commissioner's report to the Council for it's preliminary consideration as provided by ORS 271.100. This review process shall be completed before the City publishes or posts public notices of the contemplated vacation.

17.84.040 Bond or Cash Deposit.

(Amended by Ordinance No. 184957, effective November 25, 2011.) When the Council is petitioned to vacate any street, public place or plat or part thereof, in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, wires or other utility or public service facilities are constructed and maintained, and the proposed vacation will require the removal of the utility or public service facilities or any portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part thereof may provide that the vacation shall not be effective unless the petitioner shall file with the Auditor of the City his acceptance of the terms and provisions of the ordinance together with a surety bond or cash deposit, in such sum as shall be fixed by the Council. The surety bond or cash deposit shall be to the effect that, in the event the vacation is granted, the petitioner will, within 90 days or such other time as the Council may fix after the vacation ordinance is effective, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the facilities or have them reconstructed and relaid by the owner in the places as may be required by the Director of the Bureau of Transportation, and obtain other work as required by the ordinance in the manner directed by the Director of the Bureau of Transportation, all at the expense of the petitioner.

17.84.050 Statutory Procedures Applicable.

The provisions applicable to a vacation, set forth in ORS 271, shall apply to each vacation. Alternative procedures therein allowed may be followed.

17.84.060 Consent to Vacation for City as Owner.

Whenever City owned property abuts area of a street or plat sought to be vacated by petition, or is located within "affected area" fixed by statute, the Mayor, City Commissioner or City Commission under whose jurisdiction the property has been placed may sign consent to the vacation as an owner for the purpose of Council jurisdiction and consideration.

17.84.065 Vacation on Council's Own Motion; Notification.

(Added by Ordinance No. 136419, effective May 28, 1973.) Whenever the City Council shall initiate vacation proceedings on its own motion, the City Auditor shall give notice of the proposed action and hearing to all owners of real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case, not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each

terminus of the part proposed to be vacated. When a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. Whenever the Council shall initiate proceedings to vacate a plat or portion thereof, the City Auditor shall notify all property owners within such plat or part thereof proposed to be vacated of the proposed action and hearing.

The notification required by this Section shall be given not less than 28 days before the hearings on the proposed action.

Chapter 17.88

STREET ACCESS

Sections:

17.88.001 Purpose.
17.88.010 Definitions.
17.88.020 For Building and Planning Actions.
17.88.030 Location of Multiple Dwellings.
17.88.040 Through Streets.
17.88.050 Transportation Impact Study.
17.88.060 Dedication Prior to Permit Approval.
17.88.070 Routes of Travel in Park Areas.
17.88.080 Special Requirements for East Corridor Plan District.

17.88.001 Purpose.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) The purpose of this chapter is to describe the requirements for a transportation impact study, to ensure an adequate level of street connections to serve land uses, and to ensure that improvements to these streets are made in conjunction with development consistent with fire, life safety, and access needs.

17.88.010 Definitions.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) As used in this Chapter, the following terms shall have the following definitions:

A. **"Exceptional Habitat Quality"** for connectivity purposes:

1. Riparian-associated wetlands protected with environmental zones;

2. Locally or regionally rare or sensitive plant communities;

3. Important forest stands contributing multiple functions and values to the adjacent water feature habitats of sensitive, threatened or endangered wildlife species; or

4. Habitats that provide unusually important wildlife functions, such as (but not limited to) a major wildlife crossing/runway or a key migratory pathway.

B. **"Mixed-Use Area"** is compact development that allows a mix of uses, either within buildings or among buildings, and includes residential development as one of the potential components. Mixed-use areas include all commercial zones (CN1

and 2, CO1 and 2, CM, CS, CG, and CX), the EX, Central Employment Zone, and the IR, Institutional Residential Zone, All other employment zones, industrial zones, and the Open Space Zone are not included.

C. **"Significant alterations"** are changes to property that are 35 percent or greater than the assessed value of all improvements on the site. Mandatory improvements for fire, life safety and accessibility do not count toward the threshold.

17.88.020 For Buildings and Planning Actions.

(Replaced by Ordinance No. 177028; amended by Ordinance Nos. 182760 and 184957, effective November 25, 2011.) All building permits and planning actions are subject to the following:

A. No single family, multiple dwelling, industrial or commercial building shall be constructed, or altered so as to increase its number of occupants, or make significant alterations to a building without resulting in increased occupancy, on property that does not have direct access by frontage or recorded easement with not less than 10 feet width of right-of-way to a street used for vehicular traffic.

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

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

17.88.030 Location of Multiple Dwellings.

(Replaced by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) Unless permitted as part of an approved Planned Development the Council permits by ordinance, no multiple dwellings or accessory building shall be so located on any lot, block, tract or area within the City that any portion of the dwelling or building will be more than 250 feet from a dedicated street abutting the lot or block or that portion

of a tract or area on which the multiple dwelling or accessory building shall have direct access to such street by way of an approved roadway.

17.88.040 Through Streets.

(Replaced by Ordinance No. 177028; amended by Ordinance No. 184957, effective November 25, 2011.) Street connectivity provides access to adjacent properties and reduces out-of-direction travel. New or expanding development must include the following:

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

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

C. New residential development or development in existing or future mixed-use areas that will require construction of new street(s) must:

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

2. Provide for street connections no further apart than 530 feet, except where prevented by barriers such as topography, railroads, freeways, pre-existing development, or natural features where regulations do not allow construction of or prescribe different standards for streets;

3. Provide bicycle and/or pedestrian connections when full street connections are not possible, no further apart than 330 feet except where prevented by barriers as noted above;

4. Limit the use of cul-de-sac or closed street systems; and

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

D. Street and pedestrian/bicycle spacing standards may be modified in areas of exceptional habitat quality to the following standards:

1. Where streets must cross over protected water features, provide crossings at an average spacing of 800 to 1,200 feet, unless exceptional habitat quality or length of crossing prevents a full street connection.

2. Pedestrian and bicycle connections that cross protected water features should have an average spacing of no more than 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.

17.88.050 Transportation Impact Study.

(Replaced by Ordinance No. 177028, effective December 14, 2002.) The traffic impacts of dividing or developing land may warrant a transportation impact study. The purpose of a transportation impact study is to assess the effects of development in the vicinity of a site on traffic conditions and operations; transit, pedestrians, and bicycle movement; and neighborhood livability. A transportation impact study may be required under the following situations:

A. Where approval criteria for a land use review include a requirement of adequacy of transportation services and the development proposed through the review meets or exceeds the following thresholds:

1. Trip generation threshold. More than 100 new vehicle trips will be generated in the peak direction (inbound or outbound) during the site's peak traffic hour; or

2. Neighborhood traffic threshold. More than 250 new trips will be generated per day that are likely to use predominately residential Local Service Traffic Streets.

B. Safety or operational impacts. Where the City Engineer has identified potential safety or operational concerns that may be impacted by the layout of a site or the location or size of driveways for a proposed development.

17.88.060 Dedication Prior to Permit Approval.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) No permit shall be issued for the construction of any dwellings or buildings upon any lot, block, tract or area within the City until required dedications, as outlined in this Chapter, are complete.

17.88.070 Routes of Travel in Park Areas.

(Added by Ordinance No. 177028; amended by Ordinance No. 182760, effective June 5, 2009.) The Bureau of Transportation, may, upon the request of the Commissioner In Charge of the Bureau of Parks and Recreation, take over and perform the construction, reconstruction, maintenance and repair of any boulevards, roadways, drives, paths, trails, walks or other routes of travel in park areas of the City. The transfer of such

responsibility to the Bureau of Transportation shall not operate to remove the routes of travel from the jurisdiction and control of the Bureau of Parks and Recreation, and the planning and location of new routes shall remain the responsibility of, and in the jurisdiction of the Bureau of Parks and Recreation.

17.88.080 Special Requirements for East Corridor Plan District.

(Added by Ordinance No. 178424; amended by Ordinance No. 182760, effective June 5, 2009.) East Corridor Plan District. Until a master street plan is adopted in the Transportation Element of the Comprehensive Plan for the East Corridor Plan District, as shown in Title 33, Map 526-1, street connectivity for the area should generally be based on a block size of 400 by 200 feet and connect to the surrounding street grid consistent with the prevailing block pattern.

Chapter 17.92

STREET DESIGNATION

Sections:

17.92.010 Administration.
17.92.020 Prefixes for Street Designations in the City.
17.92.030 Designation of Streets, Avenues, Boulevards and Drives.

17.92.010 Administration.

(Added by Ordinance No. 161984; amended by Ordinance No. 176555, effective July 1, 2002.) For public streets and private street tracts, the City Engineer shall designate street prefixes, names, and numbers, keep records of such designations and exercise such other powers as are necessary to carry out the provisions of this Chapter.

17.92.020 Prefixes for Street Designations in the City.

(Amended by Ordinance No. 161984, effective July 1, 1989.) All streets in that section of the City north of the Willamette River and west of the center line of Williams Avenue shall be designated as North and the prefix "N" shall be added to the street name. All streets in that section of the City north of the center line of East Burnside Street and east of the center line of Williams Avenue shall be designated as Northeast, and the prefix "NE" shall be added to the street name, except Williams Avenue, which shall have the prefix "N" added to the street name and except Burnside Street which shall have the prefix "E" added to the street name. All streets in that section of the City south of the center line of East Burnside Street and east of the Willamette River shall be designated as Southeast and the prefix "SE" shall be added to the street name, except Burnside Street which shall have the prefix "E" added to the street name. All streets in that section north of the center line of Burnside Street and west of the Willamette River shall be designated as Northwest, and the prefix "NW" shall be added to the street name, except Burnside Street which shall have the prefix "W" added to the street name. All streets in that section of the City south of the center line of Burnside Street and west of the Willamette River shall be designated as Southwest and the prefix "SW" shall be added to the street name, except Burnside Street which shall have the prefix "W" added to the street name.

17.92.030 Designation of Streets, Avenues, Boulevards and Drives.

(Amended by Ordinance Nos. 161984 and177028, effective December 14, 2002.)

A. All streets within the corporate limits of the City running in an easterly and westerly direction shall hereafter be designated as “streets,” and all streets running in a northerly and southerly direction shall be designated as “avenues." Streets lying between two consecutively numbered streets shall be designated as "place" and shall take the lesser number of said two numbered streets. The terms "drive," "court," "lane," "terrace" or "way" may be used to designate winding or circuitous streets. Scenic, arterial or greenscape streets may be designated as "boulevards" or "drives" in lieu of the term "streets" or "avenues."

B. All streets shall be designated by one name for the entire length.

Chapter 17.93

RENAMING CITY STREETS

(Added by Ordinance No. 161897,
effective June 4, 1989.)

Sections:

17.93.010 Criteria for Renaming a City Street.
17.93.020 Selection of Street to be Renamed.
17.93.030 Application Procedures and Fees.
17.93.040 Review of Application and Public Hearings.
17.93.050 City-Initiated Action to Rename a City Street.
17.93.060 Implementation.

17.93.010 Criteria For Renaming a City Street.

A. Any individual or organization may apply to the City to rename a City street. City streets may only be renamed after a prominent person. Such prominent person must be:

1. a person who has achieved prominence as a result of his or her significant, positive contribution to the United States of America and/or the local community;

2. a real person; and

3. a person who has been deceased for at least five years.

B. Only one street renaming application shall be processed at a time, and only one street name change shall be implemented per year for a major traffic or district collector street. Additional applications shall be placed on a waiting list and processed in order of submission when this criteria can be met.

17.93.020 Selection of Street to be Renamed.

A. The name of the street proposed for renaming shall not be changed if the existing name is of historic significance, or the street is significant in its own right.

B. The street proposed for renaming must start and terminate entirely within City boundaries.

C. The name of any street shall be the same for its entire length. Renaming only portions of a street shall not be permitted.

17.93.030 Application Procedure and Fees.

(Amended by Ordinance No. 183829, effective July 1, 2010.) The applicant must conform to the following procedure in applying to rename a City street:

A. The applicant shall submit evidence to the City Engineer that the street renaming proposal is in compliance with Section 17.93.010 A. 2. and A. 3., and Section 17.93.020 B. and C. If the City Engineer determines the submittal does not comply with these sections, the applicant will be so advised and the City shall take no further action. If the submittal is in compliance with the above referenced sections, the City Engineer shall issue the application materials described in Subsection B.

B. The applicant shall obtain from the City Engineer:

1. official petition forms;

2. instructions as to fees and required procedures; and

3. the application form.

C. The applicant shall, after filing a completed City Engineer's application form and paying any applicable fees:

1. Obtain a minimum of 2500 signatures in support of the proposal from legal residents of the City at large or signatures of at least 75% of the abutting property owners along the street proposed for renaming on the petition forms supplied by the City Engineer.

2. Make a good faith effort to obtain a letter of concurrence to the proposed street renaming from the honoree's surviving spouse, children, or parents, in that order. The City Engineer shall accept registered mail receipts and copies of all letters as evidence of compliance with this provision.

3. Provide to the City Engineer supporting information including a complete biography of the proposed honoree with references of substantiation, honors received, contributions to the national and/or local community, et cetera, which will be reviewed by a historian panel appointed pursuant to Section 17.93.040 A. This submission shall contain sufficient information to allow the historian panel to accurately assess the appropriateness of renaming a street after the proposed honoree.

D. The applicant shall have 180 calendar days to complete and submit the information required by Subsection C. to the City Engineer's office. If the completed application has not been submitted to the City Engineer within 180 calendar days after the application has been received by the applicant, the application shall be invalid. No time extension shall be granted. At the time of submission, the City Engineer shall check the applicant's application and accept it only if it is complete and appears to comply with the requirements of Sections 17.93.010 through 17.93.030.

1. If the City Engineer accepts the submission, the applicant shall make a fee deposit to cover the full cost of printing and mailing postcards and public notices as determined by the City Auditor. The minimum fee deposit shall be as established in the Transportation Fee Schedule if the street proposed for renaming is ten City blocks (½ mile) or less in length. If the street proposed for renaming is more than ten City blocks (½ mile), the minimum deposit shall be as established in the Transportation Fee Schedule. The Auditor shall refund any unused portion of the deposit to the applicant, or the applicant shall be required to pay for any cost of printing, mailings, and public notices in excess of the fee deposit.

17.93.040 Review of Application and Public Hearings.

(Amended by Ordinance Nos. 182389 and 184046, effective September 10, 2010.) Upon receipt of the applicant's packet, the City shall process the application as follows:

A. The City Engineer shall, within 14 calendar days after submission of the completed application, refer the street renaming application to a panel of three historians or persons with appropriate expertise appointed by the Commissioner in charge of the Bureau of Transportation for review and determination as to appropriateness of the proposed name and its compliance with criteria for selecting a new street name, and determination as to historic significance of the street.

B. The City Engineer shall notify all neighborhood and business associations recognized by the City which encompass or represent owners of property or businesses located on property abutting the street proposed for renaming of the proposed renaming and request that they submit in writing to the City Engineer their support or opposition to the proposed name change within 45 days.

C. The Historian Panel shall have 45 calendar days from the date of receipt to review the application and advise the City Planning and Sustainability Commission as to its recommendations. If the panel does not provide a recommendation within the 45-day period, the Planning and Sustainability Commission shall review the application with no recommendation unless the Planning and Sustainability

Commission grants a time extension to the Historian Panel, which shall not exceed 14 calendar days.

D. Concurrent with the Historian Panel review under Subsection C. of this Section, the Auditor shall conduct a postcard mailing survey of each legal owner and each legal address abutting the street in question, notifying them that there will be public hearings by the Planning and Sustainability Commission and City Council regarding the proposed street renaming and requesting the occupant and owner's input within 30 calendar days, as to the proposed name change. The Auditor shall also receive and tabulate all responses to the postcard survey and forward the results to the City Planning and Sustainability Commission.

E. The City Engineer shall prepare and submit to the Planning and Sustainability Commission a budget impact statement as to the direct cost of production and installation of new street name signs and related City costs.

F. The City Planning and Sustainability Commission shall conduct a public hearing on the matter and make a recommendation to the City Council as to the best interest of the City and the area within six miles of the City limits in accordance with ORS 227.120.

G. The Auditor shall schedule a public hearing before City Council on the matter. Notice of the hearing shall be published in a newspaper of general circulation not less than once within the week prior to the week within which the hearing is to be held.

H. A public hearing shall be held before City Council on the proposed street name change.

I. The Council may approve or deny application for a street name change upon determination of the best interests of the City and the area within six miles of the City limits. If Council denies the application, it is filed with no further consideration, and the subject name and street shall not be considered again under this Policy for a period of at least two years. If Council approves the application, certified copies of the enabling Ordinance shall be filed with the County Recorder, County Assessor, and County Surveyor.

17.93.050 Council-Initiated Action to Rename a City Street.

The Council may rename a street in order to correct errors in street names, or to eliminate confusion. Such action may be taken if it is determined that insignificant impact will result and it is desirable for the convenience of the general public. Renaming of a street by the City under provisions of this paragraph shall not be undertaken to rename a street after a person as provided for in other sections of the Chapter. Therefore, City-initiated actions to rename a street under provisions of this paragraph shall be exempt from

compliance with Sections 17.93.010 through 17.93.030 and Section 17.93.040 A. through D. Section 17.93.040 E. through I. shall continue to be applicable.

17.93.060 Implementation.

A. After Council approval of the name change, the Bureau of Maintenance shall install the new name signs adjacent to the existing street name sign. Both signs shall be in place for a period of five years, unless a petition is submitted to City Council from a majority of abutting property occupants requesting that the dual signage period be shortened. Both street name signs shall be maintained for the five-year period at the same level of maintenance approved for street name sign maintenance Citywide, after which time the old name shall be removed.

B. The Auditor shall also notify the following organizations and individuals of the street name change through public notice, inter-office correspondence, or other appropriate means within 30 days after approval of the enabling Ordinance:

1. The applicant;

2. Affected City, County, State, and Federal Agencies;

3. General public;

4. Emergency service organizations;

5. Owners and occupants of all property abutting the street being renamed; and

6. United States Postal Service.

Chapter 17.96

SURVEYS, ELEVATIONS AND MONUMENTS

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

Sections:

17.96.005 Preservation of Record Monuments.
17.96.050 Datum Plane Established (City of Portland Vertical Datum).
17.96.062 City Benchmarks.
17.96.065 Preservation of City Benchmarks.
17.96.070 Grade Elevations To Be Referred to Datum Plane.
17.96.080 Prior Grades Not Affected.

17.96.005 Preservation of Record Monuments.

(Added by Ordinance No. 182760, effective June 5, 2009.) Any person or public agency removing, disturbing or destroying any survey monument of record in the office of the County surveyor or County clerk shall cause a registered professional land surveyor to reference and replace the monument as prescribed by the applicable Oregon Revised Statues. The cost of referencing and replacing the survey monument shall be paid by the person or public agency causing the removal, disturbance or destruction.

17.96.010 Base Line Established.

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

17.96.020 Monuments Established.

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

17.96.030 Base Line for Couch's Addition Established.

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

17.96.040 Monuments Established in Couch's Addition.

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

17.96.050 Datum Plane Established (City of Portland Vertical Datum).

(Amended by Ordinance No. 182760, effective June 5, 2009.) All grade elevations in the City shall be referred to a fixed datum established herein. The datum plane for grades was originally established 56.743 feet below the initial bench mark set by the City in the southerly quadrant of the top step of the Soldiers' Monument located in Lownsdale Square in the City, said bench mark being marked "CITY OF PORTLAND, INITIAL

CLASS A BENCH MARK NO. 00, $50 FINE FOR DISTURBING." A datum plane above described is hereby established as the official datum of the City. The United States geological survey bench mark set in the granite base of the north pillar of the porte cochere at the SW 5th Avenue central entrance to the City Hall in Portland has an elevation 78.835 feet above the datum plane of the City as herein established.

17.96.060 Grade Elevations To Be Recorded.

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

17.96.062 City Benchmarks.

(Added by Ordinance No. 182760, effective June 5, 2009.) The City Surveyor shall establish and maintain a network of benchmarks throughout the City. Benchmarks are survey markers that have a specific elevations determined for them and these elevations are referenced to the City of Portland Vertical Datum. Benchmark information can be found on the Portland Transportation Survey Section website.

17.96.065 Preservation of City Benchmarks.

(Added by Ordinance No. 182760, effective June 5, 2009.) Any person or public agency removing, disturbing or destroying a City Benchmark shall contact the Portland Transportation Survey Section as soon as it is apparent that a Benchmark will be or has been removed, disturbed or destroyed. Survey may set a new Benchmark in the vicinity of the old one and establish an elevation for it.

17.96.070 Grade Elevations To Be Referred to Datum Plane.

All proposed establishment of grades or changes of grades in the City submitted to the Council shall be referred to the datum plane.

17.96.080 Prior Grades Not Affected.

The establishment of a fixed base to which all grade elevations are referred as outlined in this Chapter shall in no way affect the validity of grades or any improvements carried out prior to such establishment.

Chapter 17.100

REMEDIES & PENALTIES

(New Chapter substituted by Ordinance No. 155257, effective October 27, 1983.)

Sections:

17.100.010 Enforcement Independent of Other Officials.
17.100.020 Responsible Official and Responsible Engineer Designated Representative.
17.100.030 Liability.
17.100.040 Remedies.
17.100.050 Penalty for Violation.

17.100.010 Enforcement Independent of Other Officials.

(Amended by Ordinance No. 173295, effective April 28, 1999.) The authority of Responsible Officials and Responsible Engineers to enforce the provisions of this Title is independent of and in addition to the authority of other City officials to enforce the provisions of any Title of the City Code.

17.100.020 Responsible Official and Responsible Engineer Designated Representative.

(Amended by Ordinance No. 173295, effective April 28, 1999.) Responsible Officials and Responsible Engineers as used in this Chapter shall include their representatives.

17.100.030 Liability.

(Amended by Ordinance No. 173295, effective April 28, 1999.) The Responsible Officials and Responsible Engineers, or authorized representatives of the Responsible Officials and Responsible Engineers charged with the enforcement of this Title, acting in good faith and without malice in the discharge of their duties, shall not thereby render themselves personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of their duties. Any suit brought against the Responsible Officials and Responsible Engineers or employee because of such act or omission performed by them in the enforcement of any provision of this Title shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

17.100.040 Remedies.

(Amended by Ordinance No. 173295, effective April 28, 1999.)

A. In addition to any other remedies or penalties provided by this Title or by any other law, the Responsible Officials and Responsible Engineers may enforce the provisions of this Title by:

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

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

3. Taking such other actions as the Responsible Officials and Responsible Engineers in the exercise of their discretion deem appropriate.

B. Nothing in this Section shall be construed to afford a person the right of appeal, pursuant to Chapter 22.10, to the Code Hearings Officer from a decision or determination of the Responsible Officials and Responsible Engineers, or any bureau designated under Chapter 3.12 of this Code.

17.100.050 Penalty for Violation.

(Amended by Ordinance No. 173295, effective April 28, 1999.) Any person who violates any provision of this title shall be subject to a civil penalty of not more than $500 for each violation. In the event that any provision of this Title is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation shall be subject to the penalty herein provided.

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.

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.

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.

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.

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.

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;

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 hall 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

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.

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 l, 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 Parliculate 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

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

$500.

2. A second violation of this Chapter by the same person may be subject to n 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

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.

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

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 recyclers 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:

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.

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.

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.

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.

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.

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.

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 permitee 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;

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.

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

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

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.

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.

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.

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.

Chapter 17.103

SINGLE-USE PLASTIC CHECKOUT BAGS

(Chapter replaced by Ordinance No. 185737,
effective March 1, 2013.)

17.103.010 Purpose.
17.103.020 Definitions.
17.103.030 Authority of Director to Adopt Rules.
17.103.040 Checkout Bag Regulation.
17.103.050 Enforcement and Penalties.
17.103.060 Severability.

17.103.010 Purpose.

The purpose of this Chapter is to regulate the distribution of plastic bags at retail and food establishments. The distribution of plastic bags has significant, on-going harmful impacts upon the environment, including

A. Plastic bags are a major source of litter.

B. When littered, the material is detrimental to wildlife that ingests it.

C. The materials used in plastic bags are persistent in the environment.

17.103.020 Definitions.

For purposes of Chapter 17.103, and any rules adopted thereunder, the following terms shall have the meanings specified in this Section.

A. **"Director"** means the Director of the Bureau of Planning and Sustainability, or his or her authorized representative, designee or agent.

B. **"Food provider"** means any person in the City that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

C. **"Grocery store"** means any business in the City with gross annual receipts of $2,000,000 or greater, offering for sale items of food and perishable items as well as other household goods and supplies.

D. **"Recycled paper bag"** means a paper checkout bag provided by a retail establishment or food provider to customers, meeting the following requirements:

1. Contains a minimum of 40 percent recycled content; and,

2. Is accepted for recycling in the City of Portland recycling program regulations under Chapter 17.102 of the City Code.

E. **"Reusable bag"** means a bag with handles that is specifically designed and manufactured for long-term multiple reuse and is

1. Made of cloth or other machine washable fabric; or

2. Made of durable plastic that is at least 4.0 mils thick.

F. **"Retail establishment"** means any 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 located within the City that sells or offers for sale goods to a customer.

G. **"Single-use plastic checkout bag"** means a plastic bag that is provided by a retail establishment or food provider to a customer and is not a reusable bag. A single-use checkout bag does not include either of the following:

1. A bag provided by a pharmacist to contain prescription medication purchased by customers of the pharmacy;

2. A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or reusable bag; or,

3. A plastic cover designed and used for protecting garments on a hanger.

17.103.030 Authority of Director to Adopt Rules.

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 10 nor more than 30 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, the Director shall conduct additional public review, 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 and with the City Auditor's Portland Policy Documents repository.

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 5 business days of the adoption of an interim rule, the Director shall send notice of 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; and,

d. Persons on the Bureau of Planning and Sustainability list of parties interested in administrative rules.

17.103.040 Checkout Bag Regulation.

A. As of March 1, 2013, the following shall provide only recycled paper bags or reusable bags as checkout bags to customers:

1. Grocery stores; or,

2. Retail establishments or food providers with greater than 10,000 square feet in specific store size.

B. As of October 1, 2013, all retail establishments and food providers shall provide only recycled paper bags or reusable bags as checkout bags to customers.

C. Violators of the requirements of Subsection 17.103.040 A. shall be subject to penalties as set forth in Section 17.103.050.

17.103.050 Enforcement and Penalties.

A. Any retail establishment or food provider that violates this Chapter shall be subject to:

1. Upon the first violation, the Director shall issue a written warning notice to the retail establishment or food provider that a violation has occurred.

2. Upon subsequent violations, the following penalties shall apply:

a. $100 for the first violation after the written warning in a calendar year;

b. $200 for the second violation in the same calendar year; and,

c. $500 for any subsequent violation within the same calendar year.

3. No more than one penalty shall be imposed upon any single location of retail establishment or food provider within a 7-day period.

B. Upon making a determination that a violation of this code or regulations duly adopted pursuant to this Chapter 17.103 has occurred, the Director will send a written notice of the violation by mail to the retail establishment or restaurant specifying the violation and the applicable penalty as set forth in Subsection A.

C. Any store receiving a notice of violation must 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 Section 22.10.030.

17.103.060 Severability.

If any Section, Subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter. The Council declares that it would have passed this

Chapter, and each Section, Subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, if for any reason this Chapter should be declared invalid or unconstitutional, then the remaining Section, Subsection, sentence, clause or phrases shall be in full force and effect.

FIGURE 1 - (Section 17.12.020)

(Deleted by Ordinance No. 163420,
effective Sept. 29, 1990.)

FIGURE 2 - (Section 17.24.020)

(Repealed by Ordinance No. 183829,
effective July 1, 2010.)

SEWER USER SERVICE CHARGES AND RATES

FIGURE 3 - (Section 17.36.010)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

FIGURE 4 - (Section 17.36.020)

(Repealed by Ordinance No. 178449, effective May 26, 2004.)

FIGURE 5 - (Section 17.36.020)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

FIGURE 6 - Chapter 17.102

(Replaced by Ordinance No. 186600
effective July 1, 2014.)

Residential Solid Waste and Recycling Rates

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" refers to 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.

Curbside Collection Service Rates and Charges				
Service Level	**Monthly Rate Curbside Pickup**	**Per Unit or Per Pickup**	**Non-Curb Surcharge**	**Excess Distance**
Standard Service - Service includes weekly collection of composting & recycling, every-other-week garbage				
20-gallon Can*	24.75		1.70	0.55
32-gallon Can*	28.55		1.70	0.55
20-gallon Rollcart	24.75			
35-gallon Rollcart	29.35			
60-gallon Rollcart	35.90			
90-gallon Rollcart	42.80			
1.0 Cubic Yard Container	85.65			
1.5 Cubic Yard Container	118.25			
2.0 Cubic Yard Container	150.75			
Every-four-weeks Service - Service includes weekly collection of composting & recycling, every-four-weeks garbage				
32-gallon Can*	21.75		0.85	0.30
35-gallon Rollcart	21.75			

* Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

Service Level	Monthly Rate Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
Terrain Differential				
Standard Service (Single Container)	4.20			
Standard Service (Multiple Containers)	4.35			
Every-four-weeks Service	2.60			
Recycling Only Service	1.60			
Compost & Recycling Only	2.75			
32-Gallon Can On-Call Service	0.75			
Yard Debris On-Call	0.50			
Special Services				
Recycling Only, Weekly Collection	8.65			
Composting & Recycling Only, Weekly Collection	18.20			
On Call Garbage (32-Gallon Can or Bag)		9.15	0.85	0.30
On Call Yard Debris Collection *(32 gallon Can, Bag or Bundle--Yard Debris Only)*		7.05		
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	11.35			
Extra Recycling Rollcart	3.30			

*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

**Rollcart delivery fees may be charged in the following scenarios:

1. For composting and recycling, if it is the customer's second (or greater) rollcart delivery.
2. For garbage, if it is the customer's second (or greater) rollcart delivery within a one year period.
3. Any time the customer requests a clean rollcart.

Service Level	Monthly Rate Curbside Pickup	Per Unit or Per Pickup	Non-Curb Surcharge	Excess Distance
Multiple Cans/Rollcarts- Service includes weekly collection of composting & recycling, every-other-week garbage				
32-Gallon Cans, Two*	38.85		3.40	1.10
32-Gallon Cans, Three*	44.90		5.10	1.65
32-Gallon Cans, Four*	49.40		6.80	2.20
20-Gallon Rollcart, Two	30.95			
20-Gallon Rollcart, Three	38.35			
20-Gallon Rollcart, Four	44.15			
35-Gallon Rollcart, Two	38.85			
35-Gallon Rollcart, Three	46.75			
35-Gallon Rollcart, Four	54.65			
60-Gallon Rollcart, Two	47.75			
60-Gallon Rollcart, Three	57.75			
60-Gallon Rollcart, Four	68.25			
90-Gallon Rollcart, Two	56.50			
90-Gallon Rollcart, Three	69.05			
90-Gallon Rollcart, Four	83.15			
Clean-Up Containers				
One 1.0 Cubic Yard		82.95		
One 1.5 Cubic Yard		91.15		
One 2.0 Cubic Yard		99.20		

*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

Curbside Collection Service Rates and Charges for Small Multiplexes

Weekly Composting & Recycling, Every-Other-Week Garbage			
Collection for:	**Duplex**	**Tri-Plex**	**Four-Plex**
Single Container Service, where rollcart / container is shared by residents of 2, 3 or 4 units			
One shared 60-Gallon Rollcart	39.50	46.50	N / A
One shared 90-Gallon Rollcart	43.60	50.60	57.60
One shared 1.0 Cubic Yard Container	66.35	73.35	80.35
One shared 1.5 Cubic Yard Container	83.15	90.15	97.15
One shared 2.0 Cubic Yard Container	99.85	106.85	113.85
Multiple Containers, where all cans / rollcarts are placed together in a single location at curbside for pickup. Where unshared cans / rollcarts are located separately at curbside for pickup then each is considered a separate account, charged at single-family rate.			
Two 32-Gallon Cans*	39.55	46.55	N / A
Three 32-Gallon Cans*	43.50	50.50	57.50
Four 32-Gallon Cans*	47.45	54.45	61.45
Two 20-Galllon Rollcarts	37.95	N / A	N / A
Three 20-Gallon Rollcarts	41.10	48.10	N / A
Four 20-Gallon Rollcarts	44.30	51.30	58.30
Two 35-Galllon Rollcarts	41.10	48.10	55.10
Three 35-Gallon Rollcarts	45.85	52.85	59.85
Four 35-Gallon Rollcarts	50.55	57.55	64.55
Two 60-Galllon Rollcarts	47.40	54.40	61.40
Three 60-Gallon Rollcarts	55.30	62.30	69.30
Four 60-Gallon Rollcarts	63.15	70.15	77.15
Two 90-Gallon Rollcarts	55.60	62.60	69.60
Three 90-Gallon Rollcarts	67.60	74.60	81.60
Four 90 Gallon Rollcarts	79.60	86.60	93.60

--N/A services are not available.
--Non-curbside service is available at small multiplexes for garbage cans and rollcarts at an additional monthly charge of $1.70 per can and $3.50 per rollcart. Excess distance charge for a can is $0.55. Excess distance charge for a rollcart is $1.15.
--For composting services, extra cans, bags, or bundles of yard debris only are $3.75 each and accrue on a per account, rather than per unit, basis.
--Recycling labor surcharge is $7.00 per additional dwelling unit.
*Customer-provided garbage cans are being phased out and these service levels are generally not available. Customers currently providing their own garbage cans are grandfathered in.

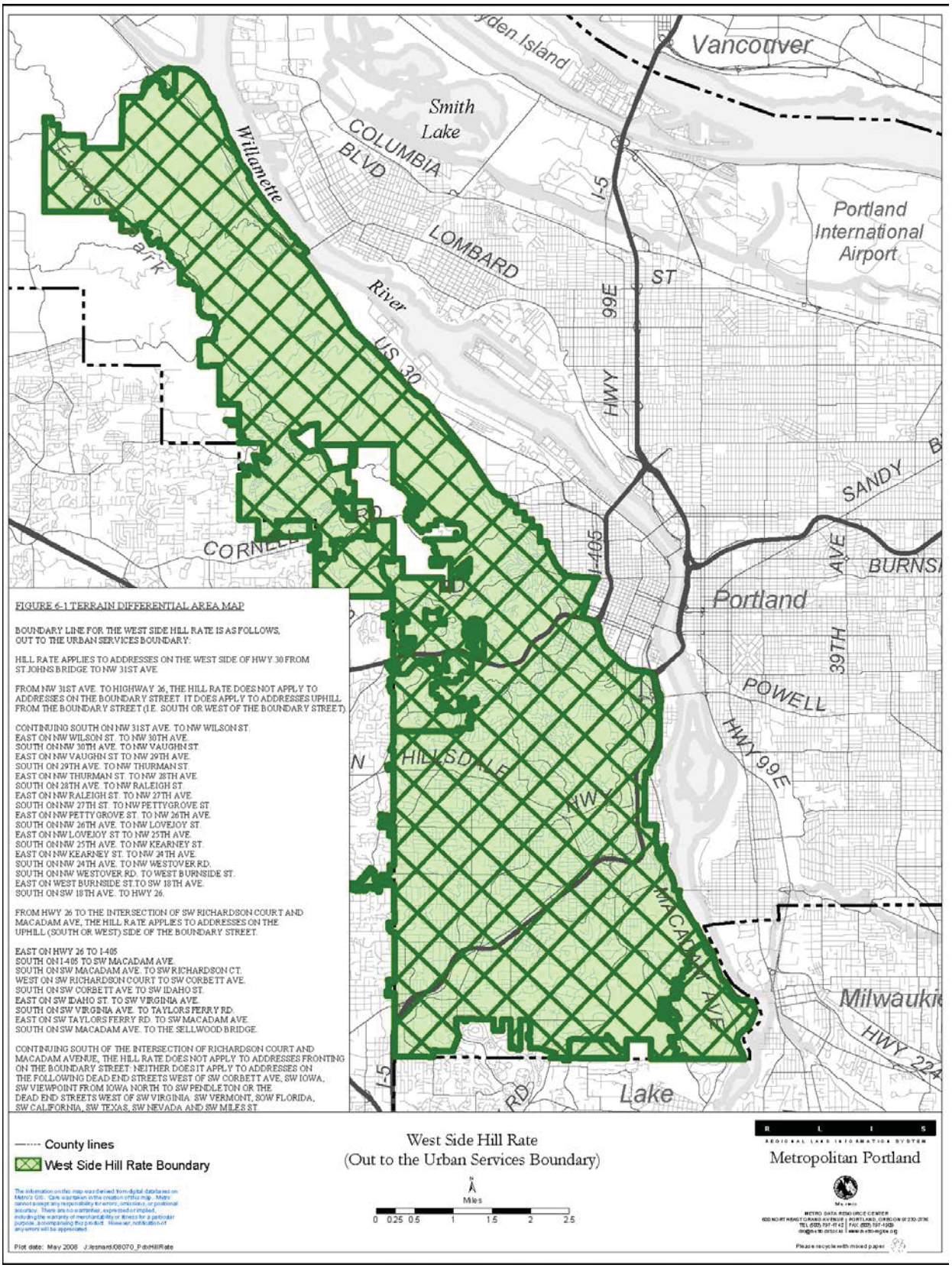
Vancouver
Smith Lake
COLUMBIA BLVD
Willamette River
LOMBARD
I-5
Portland International Airport
99E
HWY
US 30
SANDY
I-405
Portland
39TH AVE
POWELL
HWY 99E
HILLSDALE HWY
MACADAM AVE
Milwaukie
HWY 224
Lake RD
FIGURE 6-1 TERRAIN DIFFERENTIAL AREA MAP
BOUNDARY LINE FOR THE WEST SIDE HILL RATE IS AS FOLLOWS, OUT TO THE URBAN SERVICES BOUNDARY:
HILL RATE APPLIES TO ADDRESSES ON THE WEST SIDE OF HWY 30 FROM ST JOHNS BRIDGE TO NW 31ST AVE.
FROM NW 31ST AVE. TO HIGHWAY 26, THE HILL RATE DOES NOT APPLY TO ADDRESSES ON THE BOUNDARY STREET. IT DOES APPLY TO ADDRESSES UPHILL FROM THE BOUNDARY STREET (I.E. SOUTH OR WEST OF THE BOUNDARY STREET).
CONTINUING SOUTH ON NW 31ST AVE. TO NW WILSON ST.
EAST ON NW WILSON ST. TO NW 30TH AVE.
SOUTH ON NW 30TH AVE. TO NW VAUGHN ST.
EAST ON NW VAUGHN ST TO NW 29TH AVE.
SOUTH ON 29TH AVE. TO NW THURMAN ST.
EAST ON NW THURMAN ST. TO NW 28TH AVE.
SOUTH ON 28TH AVE. TO NW RALEIGH ST.
EAST ON NW RALEIGH ST. TO NW 27TH AVE.
SOUTH ON NW 27TH ST. TO NW PETTYGROVE ST.
EAST ON NW PETTY GROVE ST. TO NW 26TH AVE.
SOUTH ON NW 26TH AVE. TO NW LOVEJOY ST.
EAST ON NW LOVEJOY ST TO NW 25TH AVE.
SOUTH ON NW 25TH AVE. TO NW KEARNEY ST.
EAST ON NW KEARNEY ST. TO NW 24TH AVE.
SOUTH ON NW 24TH AVE. TO NW WESTOVER RD.
SOUTH ON NW WESTOVER RD. TO WEST BURNSIDE ST.
EAST ON WEST BURNSIDE ST TO SW 18TH AVE.
SOUTH ON SW 18TH AVE. TO HWY 26.
FROM HWY 26 TO THE INTERSECTION OF SW RICHARDSON COURT AND MACADAM AVE, THE HILL RATE APPLIES TO ADDRESSES ON THE UPHILL (SOUTH OR WEST) SIDE OF THE BOUNDARY STREET.
EAST ON HWY 26 TO I-405
SOUTH ON I-405 TO SW MACADAM AVE.
SOUTH ON SW MACADAM AVE. TO SW RICHARDSON CT.
WEST ON SW RICHARDSON COURT TO SW CORBETT AVE.
SOUTH ON SW CORBETT AVE TO SW IDAHO ST.
EAST ON SW IDAHO ST. TO SW VIRGINIA AVE.
SOUTH ON SW VIRGINIA AVE. TO TAYLORS FERRY RD.
EAST ON SW TAYLORS FERRY RD. TO SW MACADAM AVE.
SOUTH ON SW MACADAM AVE. TO THE SELLWOOD BRIDGE.
CONTINUING SOUTH OF THE INTERSECTION OF RICHARDSON COURT AND MACADAM AVENUE, THE HILL RATE DOES NOT APPLY TO ADDRESSES FRONTING ON THE BOUNDARY STREET. NEITHER DOES IT APPLY TO ADDRESSES ON THE FOLLOWING DEAD END STREETS WEST OF SW CORBETT AVE, SW IOWA, SW VIEWPOINT FROM IOWA NORTH TO SW PENDLETON OR THE DEAD END STREETS WEST OF SW VIRGINIA: SW VERMONT, SOW FLORIDA, SW CALIFORNIA, SW TEXAS, SW NEVADA AND SW MILES ST.
County lines
West Side Hill Rate Boundary
West Side Hill Rate
(Out to the Urban Services Boundary)
Miles
0 0.25 0.5 1 1.5 2 2.5
RLIS
Metropolitan Portland
Plot date: May 2008 J:\esnard\08070_PdxHillRate

Figure 7 (Section 17.37.020)
Downspout Disconnection Program Area Map

(Replaced by Ordinance No. 182467,
effective February 6, 2009.)

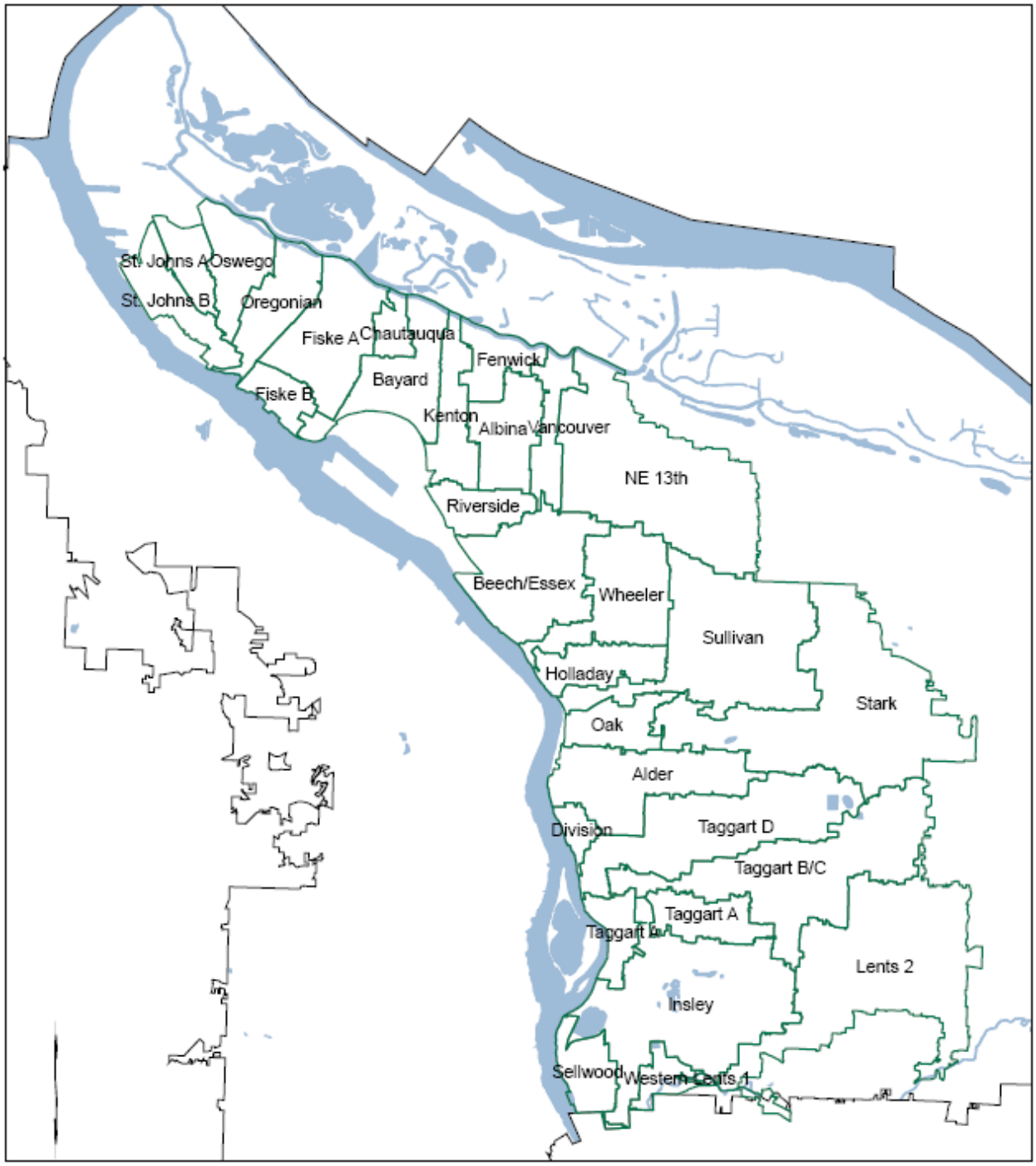

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FIGURE 8 (Section 17.36.065)

(Repealed by Ordinance No. 181846,
effective July 1, 2008.)

Figure 9 (Section 17.38.060)
(Repealed by Ordinance No. 182144,
effective September 26, 2008.)

Figure 10 (Section 17.38.060)

(Repealed by Ordinance No. 182144,
effective September 26, 2008.)

Figure 11 (Section 17.13.070)

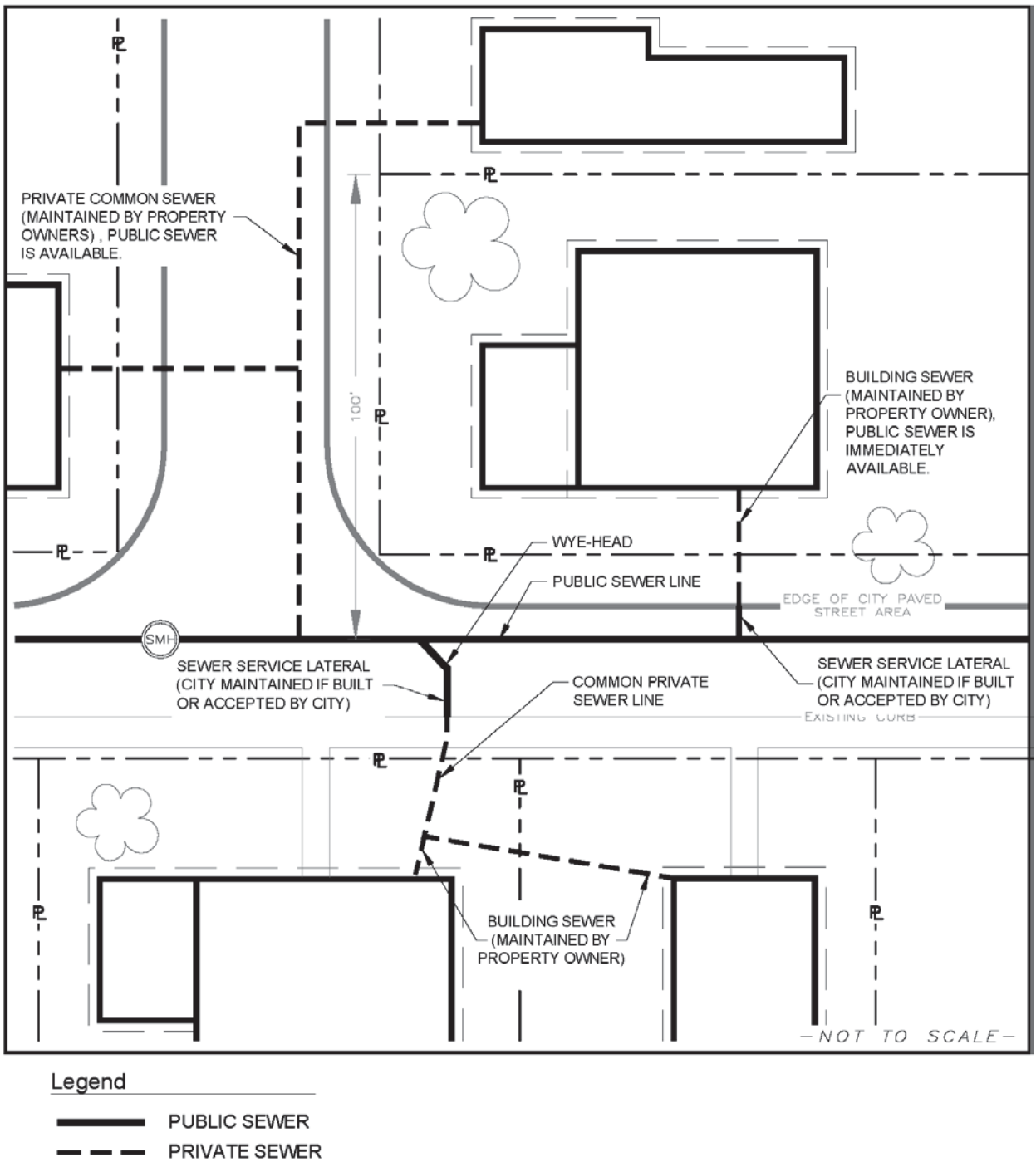
(Repealed by Ordinance No. 174617,
effective July 28, 2000.)

Figure 12 (Section 17.15.060)

(Repealed by Ordinance No. 181322,
effective January 1, 2008.)

Figure 13 (Section 17.32.055 and 17.33.020)

(Replaced by Ordinance No. 186659,
effective July 18, 2014.)



09/30/14

Figure 14 – Hourly Labor Rates for Engineering and Superintendence Services for Public Sewer Improvements (Section 17.32.150)

(Repealed by Ordinance No. 181846, effective July 1, 2008.)