



City of Portland

Portland Permitting & Development

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TEMPORARY ADMINISTRATIVE RULE

RELATING TO

PCC Chapter 5.80.060 Prohibited Nuisance

PPD No. ENB-8.05

FOR INFORMATION CONTACT

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TITLE Detention Facility Prohibited Nuisance Enforcement

AUTHORITY

Portland City Code (PCC) Title 5 (Revenue and Finance), establishes requirements related to public health and safety impacts associated with detention centers, and sets out the requirements for the adoption of administrative rules, policies, procedures for enforcement, and to establish and impose annual impact fees and civil penalties for non-compliance. PCC Section 5.80.040 provides the authority for the City Administrator to adopt administrative rules, policies, and procedures for the enforcement of applicable code provisions and laws as set forth Chapter 5.80.

FINDINGS FOR ADOPTION

1. Portland City Code Section 3.30.045 delegates the authority to adopt and administer administrative rules appropriate to perform the duties of the Portland Permitting & Development (PP&D) set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.
2. City Council adopted ordinance 192127, thereby adding Chapter 5.80 to Portland City Code effective January 2, 2026.

3. The City Administrator may adopt a temporary rule without notice or opportunity to comment. Temporary rules will be effective for a period of not longer than 180 days.

CONCLUSION

As provided in Portland City Code Section 5.80.040, and following the procedures in Section 3.30.045, the City Administrator hereby adopts this temporary Administrative Rule.

ADOPTED: _____ 2/27/2026
Raymond Lee, City Administrator **Date**

Temporary Administrative Rule Chapter 5.80.060 Detention Facility Prohibited Nuisance Enforcement

I. Purpose and Scope

The purpose and intent of this rule is to establish a citation-based enforcement process for violations of Portland City Code (PCC) 5.80.060, Detention Facility Prohibited Nuisance.

II. Definitions

- 2.1. **Allow** means the occurrence of a Release or Deposition of Chemical Residues beyond the detention facility premises originating from property owned, leased, occupied, or controlled by a Private Property Owner. A Private Property Owner allows such Release or Deposition whenever a Release originates from that owner's property and results in the Deposition of Chemical Residue beyond the detention facility premises, regardless of intent, knowledge, participation, negligence, fault, or the acts of third parties.
- 2.2. **Chemical Deterrent** means oleoresin capsicum (OC), orthochlorobenzalmalononitrile (CS), chloroacetophenone (CN), pelargonic acid vanillylamide (PAVA), or any similar chemical irritant or crowd-control agent that constitutes "tear gas" as defined in ORS 181A.708, administered by any shell, cartridge, projectile, grenade, bomb, launched munition, or other device capable of being discharged or exploded so as to release or emit the chemical. "Chemical Deterrent" does not include a "handheld chemical incapacitant" as defined in ORS 181A.708.

- 2.3 **Chemical Residues**, as used in PCC 5.80.060, means Chemical Deterrents and any particulate matter, aerosolized compound, vapor, liquid agent, solid deposit, or reactive byproduct resulting from the deployment, discharge, or dispersal of Chemical Deterrents that remains present on surfaces, in air, soil, water, vegetation, or structures following release.
- 2.4 **Detention facility** has the meaning established in Portland City Code Chapter 33.920.
- 2.5 **Fail to Prevent** means the occurrence of a Release or Deposition of Chemical Residues beyond the detention facility premises originating from property owned, leased, occupied, or controlled by a Private Property Owner when the owner did not prevent such Release or Deposition. The duty to prevent such Release or Deposition is absolute and applies regardless of intent, knowledge, notice, negligence, fault, or the acts of third parties.
- 2.6 **Private property owner** means any person, partnership, corporation, or other legal, non-governmental owner of real property within Portland.

III. **Detention Facility Prohibited Nuisance Citation Process**

General. The process and fines established in this rule shall be the process followed by Portland Permitting & Development (PP&D) for citing and enforcing violations of 5.80.060 (Detention Facility Prohibited Nuisance), imposing and collecting fines, and considering appeals.

Violations. When a violation of PCC 5.80.060 is confirmed, PP&D may issue a citation to a private property owner as defined in this rule. *A private property owner of a detention facility may not cause, allow, or fail to prevent the release or deposition of chemical residues or other substances beyond the detention facility premises (i.e. property lines).* For the purposes of PCC 5.80.060, the definitions of PCC 5.80 as well as the definitions of this rule apply.

Citation service. A citation may be personally delivered to the private property owner, or may be served by Registered or Certified Mail to the private property owner, at the private property owner's address as recorded in the county assessment and taxation records for the property. For purposes of this rule, service by registered or certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service.

Fines and corrections. The citation will state the section of PCC 5.80.060 violated, the fine imposed, and the corrective action required.

Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review, see Section V.

IV. Citation Fines

The following fines are established for violations of PCC 5.80.060.

- 1st Offense - \$5,000
- 2nd Offense - \$10,000
- 3rd Offense - \$15,000

Additional violations after the third offense shall be set at the maximum amount per individual violation allowed by this rule. Each day of non-compliance may be considered a separate violation and citations can be issued daily for confirmed violations.

Fines must be paid to and received by Portland Permitting & Development – Enforcement Program within 15 calendar days of the date on the citation, or within 15 calendar days of the final administrative review of the Director or the published decision of a citation appealed to the Code Hearings Officer.

If the citation fine is not paid within 15 calendar days, as specified above, the fine(s) indicated on the citation will double and the unpaid citation amount will be assessed as a City lien against the property. An additional charge of 10% will be added to the lien amount.

IV. Administrative Review and Appeals

If a private property owner has received a written citation and the private property owner believes the citation has been issued in error, the private property owner may request that the citation be reviewed by the City Administrator or designee. The private property owner must submit a written request for an Administrative Review within 15 calendar days of the date of the citation. An Administrative Review appeal fee, see current PP&D Enforcement fee schedule, is due when the written request for an Administrative Review is requested. This fee will only be refunded if it is determined that all of the contested violations were cited in error. A written Administrative Review determination will be served on the private property owner by regular mail. The private property owner may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.

V. Responsibility

The City Administrator, or their designee, will be responsible for managing and implementing this rule.

VI. History

Date Adopted: 2/27/2026

Effective Date: 2/27/2026

Expiration Date: 180 days later