

NRB Meeting
12/10/14
Minutes

Present: David Sweet, Elki Lahav, Julie Greb, Melissa Stewart, Paul van Orden

Absent: Carol Gossett

Minutes: Kathy Couch

Call to order: 6:03 pm

Minutes for November: – Julie Greb moves to approve the minutes from November with one amendment: in the vote tally, change the % sign to 5. Melissa seconds, for final results of minutes approved as corrected. Motion carries 4 Ayes, 0 Nays

Request for variance from Andersen Construction for crane erection on NW 13th Avenue, between NW Overton & NW Pettygrove St December 17, 2014 (Unico site)

Chair Sweet shares that ordinarily this is the type of variance that would be handled by the Noise Control office. Due to the large number of people impacted and increasing objections, any construction variances in the Pearl District are to come before the NRB.

Representing parties asking for the variance are: Andersen Construction's Brian Anthony, Project Superintendent; Steve Jones, Project Executive, and Sicklesteel's Scott Brown.

When asked by one of the NRB members how timeframe is determined for crane erections, Scott replied that he looks at the amount of time it takes to build the crane and then looks at the schedule to see when it would be safest. Tower crane erections include several truckloads of equipment.

Brian adds that the truck for crane, mast and jib typically goes into the evenings. He explains that time may be made up in one area, and then lost in others. He adds that Andersen is a local company and has been in business since 1937 and places a great deal of value on keeping good community relations. Length of time to erect a tower crane is not an exact science. It takes 5 to 6 hours to assemble the assembly crane alone.

Main crane erection generally takes 10-12 hours. Breaking it into 2 days impacts cost, scheduling, safety issues, and use of manpower. The project has already given

up weekends, and shutting it down for 2 work days for jobs typically done during varianced hours at large constructions sites throughout the city is a very unusual expectation.

Paul discusses details on neighborhood notifications for this variance request. Andersen staff passed out over 900 flyers to 5 apartment buildings, getting contact information from representatives of each building who received the flyers. The Noise Control staff followed up calls to all 5 contacts. We confirmed that they did receive them. Days later, two of the buildings had yet to distribute anything to residents.

Brian adds that along with the flyers, several of the neighbors have been on his e-mail distribution list. He feels that a good rapport has been established, and neighbors appreciate his efforts to keep them apprised of the project activity. Andersen is trying to minimize the noise as much as possible, within the parameters set by the activity of building a large building. He, along with the rest of his staff, realize that they are working in the equivalent of neighbors front yards and try to work with respect for that. Building an \$80 million high rise with only 1 variance is almost unheard of. He feels like their project may be taking the brunt for the all of the combined construction activities in the Pearl District, and does not feel that it's fair to lay the burden at his feet.

Paul confirms that cranes have had no noise issues, as far as complaints to the Noise Control office.

Scott goes over the different aspects of the project request: Specific noise-making components include: Assembly of job and impact ranges, hammering of pins as tower sections are put together, engines revving for support crane. They will mobilize the crane onsite. Other components include leveling the crane and bringing in the counterweight. This part will include the revving motor for the trucks. Assembly of the crane itself is several hours into the process. This will begin in the late morning hours. They will be starting the crane at the lower level. Crane jumps can happen during working hours. The noise from the support crane when standing next to it is much like the noise a garbage truck makes. It has a high rev and isn't hoisting very fast.

Public testimony

David Vanadia, Pearl resident – appreciated the notification, and has no objections to the request. He added that he agreed that the Unico project has been getting the brunt of the cumulative construction projects in the Pearl District.

Julie Greb moves to approve the variance request for Andersen Construction to operate on NW 13th Avenue, between NW Overton St. and NW Pettygrove St on December 17, 2014, between the hours of 5:00 am and 10:00 pm, to erect a tower crane. If possible, she would like the Noise Control office to get a representative sample of dB levels.

Melissa Stewart seconds the motion.

Motion passes 4 Aye, 0 Nay.

Chair Sweet delegates that the variance fee be charged as an over-the-counter variance.

Request from Chenoweth Law Group to address cleaning up code for references to noise in Title 18 and exploring references to noise in Title 14

Brooks Foster testifies on behalf of the Chenoweth law Group on two issues in Title 18 and Title 14 he feels are easily correctable.

The first issue is a code provision within 14A with cross references to Title 18 that appears to reference the wrong subsection.

He would like the Noise Review Board to amend city code so that it references the intended section, as follows “Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.020

The second issue is a drafting error in Portland City Code, PCC 14B.060.010.D.18 that currently defines nuisance activities to include the following: state “Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.

Chenoweth Law Group feels that there is a drafting error in this provision that must be corrected to be consistent with the drafters’ original intent, and says the corrected text should state “Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 through 18.14.

Chair Sweet explains that text changes generally occur every several years as housekeeping or when we ask for several changes to the code. It would be logical to bring this request forward with pile driving. Along with this, tweaks in the noise code will change with the updated zoning code, possibly as soon as February/March.

Paul feels this is a clear element we should be exploring.

Public testimony

None

Adjourn 7:01 pm.

First Issue

Portland City Code, PCC 14B.60.010.D.18, currently defines "nuisance activities" to include the following:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code **14A.30.010**"

We believe it should be corrected to be consistent with the drafters' original intent and read:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code **14A.30.020**"

Our research of past versions of Portland City Code and Ordinance 170218 (2006) (both attached as exhibits), shows that PCC 14B.60.010.D.18 currently references the wrong section of the code.

The original definition of "nuisance activities," from Ordinance 170218 (2006), included:

"Unlawful operation of sound producing or reproducing equipment as provided in PCC **14.24.160**"

When the Ordinance was enacted, PCC **14.24.160** was entitled:

"Unlawful Operation of Sound Producing or Reproducing Equipment."

In 2002, Ordinance 176585 amended and renumbered Title 14. It adopted the current language for PCC 14B.60.010.D.18:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010"

PCC 14A.30.010 is titled:

"Unlawful Noise Disturbance."

PCC 14A.30.020 is titled:

"Unlawful Operation of Sound Producing Equipment."

Therefore, we ask this Board to amend city code so that it references the intended section, as follows:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.020"

Alternatively, the City attorney should issue an interpretation confirming the reference in PCC 14B.60.010.D.18 to PCC "14A.30.010" was a drafting error that should be interpreted to reference PCC 14A.30.020.

Current City Code:

PCC 14B.60.010 Definitions.

A. Chronic Nuisance Property.

1. Property on which three or more Nuisance Activities exist or have occurred during any thirty (30) day period;

...

D. Nuisance Activities. Any of the following activities, behaviors or conduct:

1. Harassment as defined in ORS 166.065(1)(a).
2. Intimidation as defined in ORS 166.155 through 166.165.

...

17. Fire or discharge of a firearm as defined in Portland City Code 14A.60.020.

18. Unlawful operation of sound producing or reproducing equipment as defined in **Portland City Code 14A.30.010** and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.

19. Unlawful drinking in public places as defined in Portland City Code 14A.50.010.

20. Curfew as defined in Portland City Code 14A.80.010.

21. Indecent exposure as defined in Portland City Code 14A.40.030.

PCC 14A.30.010 Unlawful Noise Disturbance.

It is unlawful to make any excessive, unreasonable, or unusually loud sound which disturbs the peace and quiet of any neighborhood or which injures or endangers the comfort, repose, health, peace, or safety of any person.

PCC 14A.30.020 Unlawful Operation of Sound Producing Equipment.

A. It is unlawful to operate or use or permit the use of any sound producing equipment:

1. Between the hours of 10 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which is not the source of the sound; or

2. While on public property so as to be plainly audible 100 feet or more from the device.

B. Sound producing equipment includes but is not limited to any radio, television set, musical instrument, phonograph, loud speaker, bell or chime.

Chapter 14.110, Chronic Nuisance Property

14.110.010 Definitions.

A. Chronic Nuisance Property.

1. Property on which three or more Nuisance Activities have occurred during any thirty (30) day period;

...

18. **Unlawful operation of sound producing or reproducing equipment as provided in PCC 14.24.160 and excessive noise as provided in PCC 18.04.010 through PCC 18.04.040 and including PCC 18.14.010 and PCC 18.14.020.**

City Code at that time:

PCC 14.24.150–160 (1995 and 1999)

14.24.150 Unnecessary Noise.

(Added by Ord. No. 139931; passed May 22, effective June 23, 1975.) It is unlawful to make any excessive or unusually loud sound which disturbs the peace and quiet of any neighborhood or which does injure or endanger the comfort, repose, health, peace, or safety of any person.

14.24.160 Unlawful Operation of Sound Producing or Reproducing Equipment.

(Added by Ord. No. 139931; amended by Ord. No. 142956, 161404; and 166951, Sept. 15, 1993.) It is unlawful to operate or permit the use or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, television set, musical instrument, phonograph, loud speaker, bell or chime, in such a manner as to cause a noise disturbance as defined in Section 18.04.040 (17) or to operate or permit the operation of any such device between the hours of 10 p.m. and 7 a.m., so as to be plainly audible within any dwelling unit which is not the source of the sound; or to operate any such device on public property or on a public right-of-way so as to be plainly audible 50 feet or more from such device provided that a person operating any such device in a City park pursuant to a permit granted by the Commissioner In Charge of the Park Bureau shall be in violation only if the device is plainly audible at any point along the park boundary. Violation of this Section shall be punishable by a fine of up to \$500.

Second Issue

A similar question arises with respect to the nuisance provision's reference to Chapters 18.04 and/or 18.14 because the code provisions that determine what is and is not "excessive noise" appear in Chapter 18.10.

Portland City Code, PCC 14B.60.010.D.18, currently defines "nuisance activities" to include the following:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 **and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.**"

We believe there is a drafting error in this provision that must be corrected to be consistent with the drafters' original intent. The corrected text should state:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 **and/or excessive noise as defined in Portland City Code Chapters 18.04 through 18.14.**"

Chapter 18.04 provides "Standards and Definitions" but does not include a definition for excessive noise. Chapter 18.14 provides "Exemptions and Variances" from the provisions of Title 18, and also does not include a definition for excessive noise, only exemptions to excessive noise. It is Chapter 18.10 that defines what is and is not excessive noise. Yet this Chapter is not referenced in the nuisance provision. Our research into the legislative history of these provisions yields no clear explanation for what is an apparent error.

Chapter 18.10 establishes the maximum sound levels. PCC 18.10.010 reads:

"Except as specifically provided for elsewhere in this Title, no person shall cause or permit sound to intrude into the property of another person which **exceeds the limits set forth below in this Section.**"

Therefore, the reference to "excessive noise" in the nuisance provision should cross-reference PCC 18.10, yet it does not. This apparent drafting error potentially undermines the code. At minimum, it calls into question the intended meaning of what should be an unambiguous cross reference.

We recommend changing the language to "18.04 **through** 18.14" because that would capture PCC 18.10 along with all other chapters that are potentially relevant to whether a noise is excessive or not within the meaning of the code. Use of the word "through" instead of "and/or" would also be consistent with the language used in other cross-references appearing in the nuisance provision, PCC 14B.60.010.D. For example, "Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482," references over three hundred sections of the ORS to properly define "alcoholic liquor violations."

Changing the language to "through" would reflect the drafters' true intent and provide a coherent reference to a definition of "excessive noise" where one is currently missing.

Therefore, we ask this Board to amend city code so that it references the correct section, as follows:

"Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 **and/or excessive noise as defined in Portland City Code Chapters 18.04 through 18.14.**"

Alternatively, the City attorney should issue an interpretation confirming the reference in PCC 14B.60.010.D.18 only to 18.04 and/or 18.14 is intended to incorporate the maximum sound levels provided by PCC 18.10.

Current City Code:

PCC 14B.60.010 Definitions. (2014)

A. Chronic Nuisance Property.

1. Property on which three or more Nuisance Activities exist or have occurred during any thirty (30) day period;

...

D. Nuisance Activities. Any of the following activities, behaviors or conduct:

1. Harassment as defined in ORS 166.065(1)(a).
2. Intimidation as defined in ORS 166.155 through 166.165.
3. Disorderly conduct as defined in ORS 166.025.
4. Assault or menacing as defined in ORS 163.160 through ORS 163.190.
5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through ORS 163.445.
6. Public indecency as defined in ORS 163.465.
7. Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017.
8. Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482.
9. Offensive littering as defined in ORS 164.805.
10. Criminal trespass as defined in ORS 164.243 through 164.265.
11. Theft as defined in ORS 164.015 through 164.140.
12. Arson or related offenses as defined in ORS 164.315 through 164.335.
13. Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, and/or 475.940 through 475.995.
14. Illegal gambling as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127.
15. Criminal mischief as defined in ORS 164.345 through 164.365.
16. Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct.
17. Fire or discharge of a firearm as defined in Portland City Code 14A.60.020.
18. Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.
19. Unlawful drinking in public places as defined in Portland City Code 14A.50.010.
20. Curfew as defined in Portland City Code 14A.80.010.
21. Indecent exposure as defined in Portland City Code 14A.40.030.

PCC 18.04 Standards And Definitions: (2014)

18.04.010 Terminology and Standards.

...

18.04.020 Measurement of Sound.

...

18.04.040 Definitions.

The following words shall have the meanings ascribed to them in this Section:

- A. A-scale (dBA):** The sound level in decibels measured using the A-weighting network as specified in ANSI S 1.4-1971 for sound level meters.
- B. Ambient noise:** The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- C. City:** The City of Portland, Oregon, or the area within the territorial City limits of the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.
- D. Construction:** Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
- E. Decibel (dB):** A unit of measure of sound (See sound pressure level).
- F. Dwelling unit:** A building or portion thereof intended for and regularly used for residential occupancy.
- G. Dynamic braking device:** A device, used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.
- H. Emergency work:** Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
- I. Frequency:** The time of repetition of a periodic phenomenon, measured in Hertz (Hz) (formerly cps or cycles per second).
- J. High noise impact events:** Events or activities which are attended by at least 250 people, and which may reasonably be assumed to cause increases of 15 dBA or more in the ambient noise level of a residential or commercial use area.
- K. Impulse sound:** A single pressure peak or a single burst (multiple pressure peaks) for a duration of not more than one second as measured on a peak unweighted sound pressure measuring instrument, as specified in ANSI S1.4-1971.
- L. Legal holidays:** The days on which New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas day are fixed by State law.
- M. Lot:** Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting "platted lots" under the same ownership shall be considered a "lot." The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.
- N. Motor vehicle:** Any land vehicle which is, or is designed to be, self-propelled or is designed or used for transporting persons or property.
- O. Motor vehicle racing:** Any motor vehicular activity conducted at a recognized auto racing facility, involving motor vehicles participating in, but not limited to practice, qualifying and racing sessions, tests, training, and all other competitive and non-competitive displays, whether by individual vehicles, or by groups of vehicles.

P. Narrow band sound: A sound whose frequencies occupy an octave band or less.

Q. Noise disturbance: Any sound which: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.

R. Noise Sensitive Receiver: A person receiving noise at any residential use or dwelling place, schools, churches, hospitals and libraries.

S. Nonconforming use: A use of structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to Title 33 of this Code, but which is not a permitted use in the zone in which it is now located.

T. Octave band: An interval in Hertz between two frequencies having a ratio of 2:1. For purposes of this Title, octave band sound pressure levels shall be measured at any of the following center frequencies: 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 Hz.

U. Offroad vehicle: Any motor vehicle operated off a public right-of-way.

V. Person: Any individual, association, partnership, or corporation including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the City of Portland.

W. Physical characteristics of sound: A descriptive term, encompassing the steady, impulsive or narrow band property of the sound, the level of the sound, and the extent to which it exceeds the background sound level.

X. Plainly audible (sound): Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

Y. Public right-of-way: Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

Z. Sound level: In dBA, the frequency weighted sound pressure level measured on the A-scale of a sound level meter.

AA. Sound level meter: A sound level measuring device, either Type I or Type II, as defined by ANSI specification S 1.4-1971. A sound level meter for the purpose of this Title shall contain at least an A-scale and both fast and slow meter response.

BB. Sound pressure level: In decibels (dB), is 20 times the logarithm to the base 10 of the ratio of the pressure of a given sound to the reference pressure. The reference pressure is 20 micropascals per square meter.

CC. Steady sound: A sound which remains essentially constant (± 2 dB) during a two minute period of observation when measured with the fast response of the sound level meter. Steady sound shall apply only to sound sources which operate or can reasonably be expected to operate for at least 15 minutes out of any one hour period.

DD. Use: The purpose for which land or a building is arranged, designed, or occupied.

EE. Watercraft: Any vehicle operated upon or immediately above the surface of the water.

FF. Zone: A classification of area of the City of Portland as described in Title 33 of the City Code, relating to the use to which property may be put. For the purposes of this title, the zones are based upon the Land Use Zones, as defined in Title 33 as follows:

...

PCC 18.10 Maximum Permissible Sound (2014)

18.10.010 Land Use Zones.

Except as specifically provided for elsewhere in this Title, no person shall cause or permit sound to intrude into the property of another person which **exceeds the limits set forth below in this Section.** For purposes of this Section, “day hours” shall be between 7 a.m. and 10 p.m., and “night hours” shall be between 10 p.m. and 7 a.m.

...

PCC 18.14 Exemptions And Variances (2014)

The following sounds are exempted from the provisions of this Title.

18.14.010 Exemptions.

18.14.020 Variances.

APPENDIX

1. Ordinance 170218 (May 1996)
 - a. Amending 14.110.010, "Chronic Nuisance Property," and adding noise violations to nuisance activities
 - b. In its original form, PCC 14.110.010(B)18, referenced PCC 14.24.160 for the definition of "operation of sound producing or reproducing equipment."
2. September 30, 1995 City Code
 - a. PCC 14.24.160, at the time of the above ordinance, defined "Unlawful Operation of Sound Producing or Reproducing Equipment"
 - b. PCC 14.24.150 defined "Unnecessary Noise"
3. March 31, 1999 City Code
 - a. To show that PCC 14.24.160 did not change before the 1996 Ordinance

170218

ORDINANCE NO.

As Amended

*Add Code Chapter Chronic Nuisance Property and repeal present Chapters (Ordinance; add Code Chapter 14.110 and repeal Chapters 14.110 and 14.120)

The City of Portland ordains:

Section 1. The Council finds:

1. Chronic criminal activity of various kinds on and near affected property adversely affects the health, safety and welfare of citizens, and diminishes the quality of life in neighborhoods where this chronic criminal activity occurs. Chronic criminal activity constitutes a nuisance and should be subject to abatement.
2. The City has a substantial and compelling interest in protecting the health, safety and welfare of its citizens and the neighborhoods affected by chronic criminal activity.
3. The legal processes presently available do not adequately control chronic criminal activity nor its detrimental effects on citizens and neighborhoods where chronic criminal activity occurs.
4. Establishing the proposed regulatory scheme will alleviate the nuisance created by criminal activity through early intervention by the Commander of the Precinct in which the chronic criminal activity is occurring.
5. To obtain the benefits referred to in the previous paragraphs, the Council adopts the following Ordinance.

NOW, THEREFORE, the Council directs:

- a. Title 14 of the City Code is amended by repealing all of Chapter 14.110, Chronic Nuisance Property, and all of Chapter 14.120, Pattern of Disruptive Activity on Business Property.
- b. Title 14 of the City Code is amended by substituting the following chapter for existing Chapter 14.110, Chronic Nuisance Property, as follows:

Chapter 14.110, Chronic Nuisance Property**14.110.010 Definitions.**

- A. Chronic Nuisance Property.
 - 1. Property on which three or more Nuisance Activities have occurred during any thirty (30) day period;
 - 2. Property on which or within 200 feet of which any Person associated with the Property has engaged in three or more Nuisance Activities during any thirty (30) day period; or,
 - 3. Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 to 475.285 and/or 475.940 to 475.995 have occurred within the previous thirty (30) days.
- B. Nuisance Activities. Any of the following activities, behaviors or criminal conduct:
 - 1. Harassment as defined in ORS 166.065(1)(a).
 - 2. Intimidation as provided in ORS 166.155 through 166.165.
 - 3. Disorderly conduct as provided in ORS 166.025.
 - 4. Assault or menacing as provided in ORS 163.160, ORS 163.165, ORS 163.175, ORS 163.185, or ORS 163.190.
 - 5. Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as provided in ORS 163.415, ORS 163.425, ORS 163.427, ORS 163.435, or ORS 163.445.
 - 6. Public indecency as provided in ORS 163.465.
 - 7. Prostitution or related offenses as provided in ORS 167.007, ORS 167.012, and ORS 167.017.
 - 8. Alcoholic liquor violations as provided in ORS Chapter 471.105 through 471.482.
 - 9. Offensive littering as provided in ORS 164.805.

10. Criminal trespass as provided in ORS 164.243, 164.245, 164.255, 164.265.
 11. Theft as provided in ORS 164.015 through 164.140.
 12. Arson or related offenses as provided in ORS 164.315 through 164.335.
 13. Possession, manufacture, or delivery of a controlled substance or related offenses as provided in ORS 167.203, ORS 475.005 to 475.285, or 475.940 to 475.995.
 14. Illegal gambling as provided in ORS 167.117, ORS 167.122, ORS 167.127.
 15. Criminal mischief as provided in ORS 164.345 through 164.365.
 16. Any attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), any of the above offenses.
 17. Fire or discharge of a firearm as provided in PCC 14.32.010(d).
 18. Unlawful operation of sound producing or reproducing equipment as provided in PCC 14.24.160 and excessive noise as provided in PCC 18.04.010 through PCC 18.04.040 and including PCC 18.14.010 and PCC 18.14.020.
 19. Unlawful drinking in public places as provided in PCC 14.24.030.
 20. Curfew as provided by PCC 14.28.010.
 21. Indecent exposure as provided in PCC 14.24.060.
- C. Commissioner in Charge. The Portland City Commissioner assigned responsibility for the Bureau of Police.
- D. Control. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on a Property.
- E. Person in Charge. Any person, in actual or constructive possession of a Property, including but not limited to an owner or occupant of Property under his or her dominion, ownership or Control.
- F. Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

915

Agenda No.

ORDINANCE NO.

170218

Title

As Amended

*Add Code Chapter Chronic Nuisance Property and repeal present Chapters. (Ordinance; add Code Chapter 14.110 and repeal Chapters 14.110 and 14.120)

INTRODUCED BY	DATE FILED: MAY 30 1996
Mayor Vera Katz	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	By: <u>Cory Kershner</u> Deputy
Finance and Administration <i>Vera Katz</i>	For Meeting of _____
Safety	ACTION TAKEN:
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Police	
Prepared by _____ Date _____ NEAyres:krl 5/30/96	
Budget Impact Review:	
___ Completed ___ Not Required	
Bureau Head: Chief Moose	

AGENDA		FOUR-FIFTHS AGENDA		COMMISSIONERS VOTED AS FOLLOWS:	
9:30 Time Certain				YEAS	NAYS
Consent	Regular <input checked="" type="checkbox"/>	Blumenauer	Blumenauer		
NOTED BY		Hales	Hales	✓	
City Attorney	<i>ADP</i>	Kabury	Kabury	✓	
City Auditor		Lindberg	Lindberg	✓	
City Engineer		Katz	Katz	✓	

1424.150 Unnecessary Noise
(Added by Ord. No. 139981, passed
effective June 23, 1975.) It is unlawful
to make any excessive or unusually loud
noise which disturbs the peace and quiet
of the neighborhood or which does injury to
the comfort, repose, health, peace, or
any person.

**1424.160 Unlawful Operation of
Sound Producing or Reproducing
Equipment.** (Added by Ord. No. 142356, amended by Ord. No. 166961, Sept. 15, 1993.) It is unlawful to
operate or permit the use or operation of
any device designed for sound reproduction,
including, but not limited to, radio, television set,
phonograph, loud speaker, bell, or other device,
such a manner as to cause a noise, as
defined in Section 18.04.040, to be heard
as defined in Section 18.04.040.

operate or permit the operation of such
device between the hours of 10 p.m. and 6 a.m.,
so as to be plainly and audibly heard within
any dwelling unit which is not the same
dwelling unit in which the device is located,
sound, or to operate any such device on
property or on a public right-of-way so as to be
plainly audible 50 feet or more from the
device, provided that a person who operates
such device in a City shall be liable for a
violation only if the device is operated in
violation of the permit granted by the
Charge of the Police Bureau. A violation of
any point along the street or in any public place
of this Section shall be punishable by a fine
up to \$500.

1424.170 Access to Certain

TITLE 14
PUBLIC PEACE, SAFETY AND MORALS

14.24.100 Obeying Peace Officer at an Assembly.

- A.** At an assembly of three or more persons, when there is reasonable cause to believe that a disturbance of the peace or danger to public safety is imminent if the assembly continues, a peace officer may order persons present at the assembly to abandon any weapons or to disperse, if he finds that two or more persons present:
 - 1.** Are threatening bodily harm to another or damage to property, with immediate power to carry out that threat, or
 - 2.** Have committed an unlawful act of violence during the course of the assembly.
- B.** It is unlawful for any person present at the scene of an assembly of three or more persons to disobey an order of a peace officer authorized by this Section.

14.24.110 Barbed Wire Fencing.

It is unlawful for any person to construct or maintain a fence containing barbed wire, unless the barbed wire is placed not less than 6 inches above the top of the fence and the fence is not less than 4 feet high.

14.24.120 Interfering with Privacy.

- A.** It is unlawful for any person to look through a window, transom, or door into the dwelling of another with the intent to interfere with the privacy of an occupant.
- B.** As used in this Section, "dwelling" includes a building or part of a building in which a person temporarily lodges.

14.24.130 Petty Larceny.

It is unlawful for any person to take, or by false representation to obtain, the property of another, having a value of under \$200, with intent to permanently deprive of possession the owner or the person lawfully entitled to possession.

14.24.140 Protection of Reservoirs.

It is unlawful for any person to throw, dump, or deposit any material or substance in a reservoir maintained by the Bureau of Water Works.

14.24.150 Unnecessary Noise.

(Added by Ord. No. 139931; passed May 22, effective June 23, 1975.) It is unlawful to make any excessive or unusually loud sound which disturbs the peace and quiet of any neighborhood or which does injure or endanger the comfort, repose, health, peace, or safety of any person.

TITLE 14

PUBLIC PEACE, SAFETY AND MORALS

14.24.160 Unlawful Operation of Sound Producing or Reproducing Equipment.

(Added by Ord. No. 139931; amended by Ord. No. 142956, 161404; and 166951, Sept. 15, 1993.) It is unlawful to operate or permit the use or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, television set, musical instrument, phonograph, loud speaker, bell or chime, in such a manner as to cause a noise disturbance as defined in Section 18.04.040 (17) or to operate or permit the operation of any such device between the hours of 10 p.m. and 7 a.m., so as to be plainly audible within any dwelling unit which is not the source of the sound; or to operate any such device on public property or on a public right-of-way so as to be plainly audible 50 feet or more from such device provided that a person operating any such device in a City park pursuant to a permit granted by the Commissioner In Charge of the Park Bureau shall be in violation only if the device is plainly audible at any point along the park boundary. Violation of this Section shall be punishable by a fine of up to \$500.

14.24.170 Authority to Restrict Access to Certain Areas.

(Added by Ord. No. 151390; passed and effective April 9, 1981.)

- A. Whenever a threat to the public health or safety is created by any fire, explosion, accident, cave-in, or similar emergency, catastrophe, or disaster, or by disturbance, riot, presence of an armed person, hostage being held, or other disturbance, an officer, of the rank of sergeant or above, of the Bureau of Police may restrict or deny access to persons to the area where such threat exists, for the duration of such threat, when the presence of such persons in such area would constitute a danger to themselves or when such officer reasonably believes that the presence of such persons would substantially interfere with the performance of the police or other emergency services.
- B. Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of, criminal acts, an officer of the Bureau of Police may restrict or deny access to any room, building, or enclosure, or any open area, by cordoning off such area by the use of persons, vehicles, ropes, markers or any other means.
- C. As used in this Section, "restrict or deny access" means that the officers of the Bureau of Police have the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.
- D. It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Subsections (a) or (b) above, unless such person has specific statutory authority, or the permission of the on-scene ranking officer of the Bureau of Police, to be within such area.