

The Oregonian

Portland considering strictest ban on facial recognition technology in the U.S.

*By Everton Bailey Jr.
February 21, 2020*

It took a few moments before Eduardo Carrillo could step into a Jacksons Food Store in Northeast Portland on a recent weeknight.

He stood in front of the locked gas station convenience store door, placed his feet on designated spots on a doormat and looked up into a camera. The door then unlocked.

Other customers' experience wasn't as smooth. One man yanked on the door repeatedly while looking at the handle in apparent confusion -- until an automated woman's voice rang out from an overhead speaker.

"Please look at camera for entry."

Jacksons' use of facial recognition technology could soon be outlawed in Portland. City officials are considering the strictest ban of the technology in the country, prohibiting its use not only by government agencies but also private businesses.

Facial recognition technology typically uses a camera and software to analyze human faces to identify or verify a person's identity. The technology can compare a scan with an already existing database of images, such as jail booking photos or government identification records.

There are no federal rules regulating facial recognition technology or what's done with data obtained through its use, which city officials say is forcing them to follow the lead of other cities and institute their own rules.

The state of Oregon already bans police from using body cameras with facial recognition technology.

San Francisco, Oakland and Berkeley are among those that have banned use of facial recognition by police departments and other local government agencies. Portland officials have proposed similar prohibitions for public agencies. The proposed ban on private businesses' use of such technology is expected to prevent businesses from collecting, using or storing people's facial or biometric information gathered in spaces open to the public, such as parks or grocery stores.

Portland officials point to concerns over residents' civil rights and privacy as reasons for the bans. They also cite studies that show the technology shows racial and gender bias.

"We felt a moral obligation to develop a broader approach, recognizing that any use of a surveillance technology that is biased against people of color, lacks consent, lacks due process and can be used on minors is unacceptable," said Hector Dominguez, an open data coordinator in the city's Bureau of Planning and Sustainability.

The ban wouldn't apply to private use, such as the Face ID feature on iPhones.

Some business advocates say city officials should consider a temporary ban on specific uses of facial recognition software, rather than a blanket ban on the technology itself. The technology does have positive uses and evolves so fast that negative impacts may quickly be reduced, said Technology Association of Oregon President Skip Newberry.

“Talking to some businesses that we work with as well as the broader business community, there are definitely some who would be opposed to the city restricting their ability to use that technology,” he said. “It can range from security of sites or critical infrastructure to people coming into a store and it being used to provide an experience tailored to that individual.”

Jacksons officials, for example, say they use the technology at three stores in Portland to help protect employees and customers from people who’ve threatened clerks or shoplifted.

Carrillo said he frequents the Jacksons at Northeast Sixth Avenue and Broadway Street a few times a week on his way home from work, so the recently installed facial recognition camera is no longer a surprise to him. The Vancouver resident said the technology fascinates him because it reminds him of gadgets he has seen in movies.

He wonders, though, what happens after he walks into the store.

“I don’t know where the pictures of my face go,” Carrillo said.

Facial recognition as a deterrent

Portland officials said they don’t know of any businesses in the city beside Jacksons that use facial recognition technology.

Jacksons has more than 250 stores in Arizona, Idaho, Nevada, Oregon, Utah and Washington. Oregon is home to 56 locations and 16 of them in Portland. But the company only uses facial recognition at three Portland locations: 621 S.E. Grand Ave., 15 N.E. Broadway and 519 N.E. Broadway, said spokesman Russ Stoddard. The Grand Avenue location went first, in November 2018 and the other two in October.

At each location, a camera and speaker are perched above the doors. A sign tells people to look at the camera to get inside and that facial recognition is in use. The camera captures their image and unlocks the door.

Each photo is matched against images of past customers, Stoddard said, and if one matches a picture of someone Jacksons has flagged at that location, the door stays locked.

“We’ve found that it precludes certain types of behavior, because they see the camera and sign on the front door and know this is not a place to cause a ruckus,” Stoddard said.

Two other stores in Tacoma also have the technology. The stores are all open 24 hours. The facial recognition cameras operate from around 8 p.m. to 6 a.m.

The company chose the five stores based on repeated reports from employees about threats, theft or drug use, Stoddard said. He estimated that each location gets 100 to 200 customers a night.

The images are sent to a private server at the company’s headquarters in Meridian, Idaho, he said. They are stored for 48 hours and automatically deleted unless flagged by an employee, Stoddard said. Company officials review security footage from the store to confirm a flagged image should be kept.

Flagged images are kept in the company’s system forever, Stoddard said.

In the 15 months that the device has been used, just two images have been stored, one from Portland and another from Tacoma, Stoddard said. He declined to say what led to the images being held or to disclose any other details about the people involved.

Stoddard said he didn’t know of any cases in which the technology misidentified anyone.

“We understand this is a very complicated and controversial societal issue, but our focus has always been to increase the safety of employees and customers in locations where there has been misbehavior in the past,” Stoddard said. “We’re aware the City Council is looking at this issue and ultimately, we would comply with whatever the city chooses to do.”

Jacksons doesn’t sell the images or give them to third parties, according to Stoddard. However, he said the company would consider providing images to police in connection with serious crime investigations, if they were to ask.

Jacksons’ facial recognition product, called First Line, comes from Missouri-based software company Blue Line Technology. The company touts the product as developed by law enforcement veterans and markets it for places including schools, banks, high-end condos, government buildings and hospitals.

Blue Line Technology did not respond to requests for comment.

The camera captures 30 digital frames per second and images can be added to the database in less than 30 seconds, according to the company’s website. People who are scanned are classified as “known,” “unknown” and “alert” via the camera’s real-time video feed.

“You can add custom notes such as ‘known shoplifter’ and instructions for responders such as ‘call police,’ or ‘greet, so he knows you’re watching,’” the website says

Delta Airlines uses facial recognition technology at Portland International Airport to screen passengers boarding non-stop international flights, a spokesperson told The Oregonian/OregonLive.

The company scans faces to match them with pictures from photo IDs and passports. Customers can opt out and have their boarding documents checked by a gate agent instead, the spokesperson said.

Reducing harm

Portland’s proposed ban on facial recognition technology is part of a bigger effort to shape technology policy in a way that reduces harm to marginalized communities, Dominguez said.

The city council has held two work sessions since September about facial recognition technology. Officials will hold two community meetings later in February and in March to generate feedback. Dominguez said the goal is for his bureau and the Office of Equity and Human Rights to propose drafts of both the public and private bans for the public to see in March, then final versions for the council to vote on around April.

“We are using the word ban, but we consider it more as us putting the brakes on this technology in the city for now so we can create a space for developing a capacity for better understanding all this emerging technology.” he said. “We see this as a process and as the technology evolves, we need to evolve as well.”

During a January city council discussion, Portland Police Assistant Chief Ryan Lee said the bureau doesn’t use facial recognition now but may want to in the future.

Lee said potential uses of facial recognition include reducing the risk of misidentifying people accused of crimes and decreasing the time it takes to comb through suspect photos in databases. The technology could be a public safety asset if properly managed, he said.

“The technology is advancing in this field, and an outright ban could be detrimental to a point when the technology evolves that we should be looking to adopt,” Lee said.

The Washington County Sheriff's Office since 2017 has used a facial recognition tool from Amazon that allows deputies to check photos of unidentified people against a database of county jail booking photos taken as far back as 2001. Images taken from a security surveillance camera, social media account or a deputy's cellphone are among ones that can be run through the Rekognition software to identify people.

Commissioner Jo Ann Hardesty, who has led Portland's effort to ban the technology, said the issue comes down to racial justice and the community's right to privacy. Several studies have shown facial recognition technology has various degrees of accuracy and can have higher rates of error when analyzing women or people of color.

Hardesty said she began seriously considering including private businesses in the ban after learning last fall that police agencies in Washington County were encouraging residents who own Ring doorbell cameras to share video footage to help solve crimes by using an app that allows law enforcement access to the clips.

She said she was concerned that the data was controlled by a third-party company, in that case Amazon, and the public had no way of knowing who had access to their data, if it was being sold or if the devices were capturing people who didn't consent, including children.

"My problem is that you should not have your image stored if you are not involved in criminal behavior," Hardesty said. "If you're just gathering images up because people are walking by a door, to me, that is just not acceptable."

Commissioners Amanda Fritz and Chloe Eudaly also said they support the bans. Eudaly said she would not back its use by any city bureau, including Portland police.

Mayor Ted Wheeler, who oversees the Bureau of Planning and Sustainability, is also in favor of the ban. He said he doesn't think facial recognition technology should be used on a wide scale and that it hasn't developed enough to "serve the public's best interests."

He said the council might consider having a community group vet organizations that want to use the technology. Businesses would have to prove that the technology's current equity, privacy and data management issues are satisfactorily addressed.

Wheeler said the use by Jacksons could possibly lead to discriminatory practices and is an example of what the city is trying to prevent. He sees a silver lining in the business claiming their employees feel safer and that thefts have decreased, but he believes it needs to be better perfected.

"We're not there yet," Wheeler said. "None of this is possible with the technology we currently have and so we have to look to protecting the rights of our citizens above all else, especially those who've been historically underserved."

Regulate or ban?

Newberry, the Technology Association of Oregon president, and Jon Isaacs, vice president of government affairs for the Portland Business Alliance, said many of the companies they represent agree that the community has legitimate concerns about facial recognition that need to be addressed. But they said banning all private sector use may not be the most effective answer. They both said the city should focus more on regulating how the data that is collected is used.

"Facial recognition technology is only one technology among many that can be used to collect personally identifiable information," Newberry said. "You're not going to solve the bigger issue of bias and people essentially putting together a profile of someone based on data that's being collected about them just by banning facial recognition technology."

Isaacs said Portland has a growing tech industry. “If you want to be seen as a pro-technology city, banning technology is not an action you want to take,” he said.

Darren Harold-Golden, policy specialist with the Urban League of Portland, said a public and private ban on the technology would allow the community to learn more about how facial recognition is used without the threat of being inadvertently harmed by it in the interim.

“A ban doesn’t mean forever, you can always revisit it,” Harold-Golden said. “But there are still significant concerns over how explicit consent is obtained and what do you do to appeal or get off a private database if you’re mistakenly blacklisted.”

Jonathan Fink, a Portland State University geology professor and head of the school’s Digital City Testbed Center, said facial recognition technology forces people to weigh trading privacy for convenience and public safety.

“The big question is always going to be, ‘Do I want to give up my rights to my personal information and trust other parties who I’ll never actually meet to have it?’” Fink said. “Once you put a big system in place, it’s hard to take it down.”

Fink said he believes the city should institute a temporary ban this year and be open to reconsidering the technology and its innovations in 2021. He said Portland over the years has been both a policy leader and a stubborn holdout, and he hopes the city finds a middle ground in this case.

“If we stake out a position as Portland is going to be very restrictive so it can examine the questions and ethical issues around this for the benefit of the rest of the country, I think that’s a real service,” Fink said. “But on the other hand, the city could be anti-scientific and anti-objective, like still being the only major city that doesn’t fluoridate its water, and I think that’s really bad.”

Some employees at Jacksons stores in Northeast Portland said they have seen improvements since the facial recognition technology was installed. The camera and sign appear to act as a deterrent at times.

But, they say, the technology isn’t foolproof. Some customers may not have their faces captured on camera when multiple people enter the store at the same time. Also, if a person steals and doesn’t come back, keeping their picture on file doesn’t do anything.

“We deal with people from all walks of life here, but no camera is going to address homelessness, mental health or drug use,” said one employee who asked not to be identified because they weren’t authorized by the company to discuss the technology.

Ervin Hester, a Portland resident who said he worked at one of the Jacksons stores until October, said he was concerned by the company’s lack of transparency. He noted there isn’t a process for customers to know how long their photos are held or determine if they’ve been wrongly identified.

It’s on the employees to explain what the technology is and that could put them at risk, he said.

“I think these stores need it, but tell the public about why it’s here, where it is and be transparent about the whole process,” Hester said. “You don’t know how some people are going to react when they find out after the fact that the camera they thought was only recording video is actually out here scanning and downloading their face.”

Portland's new rental screening, security deposit rules are unconstitutional, landlords claim

By Everton Bailey Jr.

February 20, 2020

A rental industry group and two landlords they represent sued the City of Portland Thursday to block new housing screening and security deposit rules from taking effect, claiming they're unconstitutional.

Multifamily NW, Nevada resident Janet Newcomb and Oregonian Jerry Mason are seeking a federal judge's order to first temporarily stop the two Fair Access in Renting ordinances from going into effect March 1 and to later overrule the regulations entirely.

The ordinances passed by the Portland City Council last June violate free speech protections by requiring landlords to use certain language when advertising units and send notices issued by the city to applicants and tenants and prohibiting them from speaking to prospective tenants before processing applications, according to the lawsuit.

The policies are also too vague and don't completely inform housing providers on how to stay in compliance, have penalties that are too steep and appear to conflict with existing statewide landlord-tenant regulations, said attorney Jill Gibson, who represents the group. She said the lawsuit resulted from at least a year of trying to negotiate with city officials to "make the rules more understandable and more fair."

"We want to slow this down so the judge has a chance to look at it and really absorb what the changes are going to bring," Gibson said Friday.

[\[Read the lawsuit\]](#)

Multifamily NW, represents residential property managers, owners and vendors throughout the state and parts of Washington. The group said its members own 30,000 rental units in Portland alone.

Newcomb owns 19 rental units in Portland and Mason owns 62, according to the lawsuit.

The Portland City Attorney's Office and Office of Commissioner Chloe Eudaly, who led the effort for the new regulations, declined to comment on the lawsuit Friday.

The ordinances are the first of their kind in the country. The Portland City Council voted 3-1 last year to change the city code revising the screening criteria for landlords to use when evaluating a renter's application.

The changes include requiring landlords choose renters for open units via a first-come, first-serve application process and to give 72 hours' notice before accepting applications. Landlords would no longer be allowed to check for felony convictions older than seven years or misdemeanors older than three years.

The new rules also limit the grounds on which landlords can reject prospective renters. The ordinances call for renters to no longer be rejected for credit scores lower than 500, a court eviction order older than three years or insufficient credit history. Landlords also could no longer reject a tenant whose income is between 2 and 2.5 times the rent, and if landlords decide to use their own screen criteria, the new policy requires them to explain in writing why they rejected a prospective tenant.

The city code was also changed to requires landlords to more thoroughly account for security deposit funds withheld for repairs and allow tenants to pay security deposits in installments over three months.

Eudaly's office has said the policies were intended to increase access to housing for people who have been locked out of the conventional market because of years-old convictions or financial defaults. They said research showed screening barriers, including credit history and criminal history, disproportionately impact people of color and that renting to people with past criminal convictions didn't put housing providers or rental properties at risk.

Eudaly, Mayor Ted Wheeler and Commissioner Nick Fish voted yes on the ordinances at the time. Commissioner Amanda Fritz voted no. Commissioner Jo Ann Hardesty was absent.

The lawsuit said landlords are required to pay \$250 per violation of the screening criteria ordinance or pay double the amount of the security deposit if found in violation of the other. They would also have to pay attorney fees in both cases.

Gibson referred to the ordinances as "poorly crafted laws that further exacerbates the housing crisis" in Portland. She claimed it's already caused some landlords to sell their properties.

The Portland Housing Bureau has been offering free training for landlords on the ordinances.

Business tax could help fund \$250m homeless services ballot measure

*By Everton Bailey Jr.
February 21, 2020*

A business income tax will be added to a tax on high-income earners as the funding sources for a potential May ballot measure to provide services for people experiencing or on the verge of homelessness in the Portland metro area, authorities announced Friday.

The Metro Council is scheduled to vote 2 p.m. Tuesday on the proposal, which is expected to raise \$250 million a year to pay for housing rental assistance, health care, addiction treatment and other services, according to the Portland Business Alliance. Metro officials have described the potential ballot measure as "the single largest investment in the state regarding reducing homelessness that our region has ever seen."

Details of the business income tax were not immediately available Friday. The business alliance said small businesses would be exempt from the tax.

As of Thursday, Metro was considering only a 1% tax on the incomes of individuals earning at least \$125,000 a year and couples who earn more than \$250,000 a year in Clackamas, Multnomah and Washington counties that was expected to generate about \$135 million a year.

The council's vote to put that proposal before voters on the May 19 primary ballot was delayed after it was determined that the expected revenue was \$40 million less than a prior estimate of \$175 million.

The revised ballot measure proposal has the support of the Metro Council, the chairs of Clackamas, Multnomah and Washington counties, the Portland Business Alliance, Portland Mayor's Office and homeless advocacy coalition HereTogether, according to the business alliance.

HereTogether has been one of the main proponents of the proposal and initially said \$250 million to \$300 million a year would be needed to adequately aid people experiencing chronic homelessness in the region.

The business alliance said if the proposal is approved in May, the tax would require voter approval to continue after 10 years.

The Portland Tribune

Metro poised to submit \$250 million homeless funding measure

*By Jim Redden
February 24, 2020*

UPDATE: Proposed May primary election measure will create 1% tax on the incomes of wealthier people and larger businesses.

Metro is on the verge of asking its voters to approve first-ever regional income taxes to fund homeless programs at the May 19 primary election.

The Metro Council is expected to vote to refer the measure to the ballot on Tuesday, Feb. 25. It is called the "Supportive Housing Services Ballot Measure." Details were released Sunday evening and are now posted on the meeting's web page.

Among other things, the measure will:

- Raise \$250 million a year for homeless programs, including rent subsidies, mental health services and addiction treatment.
- Impose a 1% tax on the incomes of individuals earning more than \$125,000 a year and couples earning more than \$200,000 a year.
- Impose a 1% tax on the incomes of businesses with gross receipts more than \$5 million a year.
- Allow Metro to keep 5% of the revenue for administrative purposes.
- Distribute the 45.3% of the remaining money to Multnomah County, 33.3% to Washington County, 21.3% to Clackamas County, which will provide it to nonprofit homeless service providers.
- Create a Supportive Housing Services Regional Oversight Committee to oversee the spending.
- Require another public vote in 10 years continue the program.

Tom Cusack, a housing expert who previously worked for the federal government, estimates the personal income taxes will apply to 59,000 tax filers, which is about 7% of all files in Metro's jurisdiction.

The measure was originally requested by the HereTogether advocacy organization, which originally asked for up to \$300 million a year. The request is supported by Mayor Ted Wheeler and the chair of all three counties in Metro's boundaries. Numerous polls show that homelessness is easily the top priority issue for voters in the region.

Three items relating to the measure are currently on the agenda for the Metro Council's Feb. 25 meeting. One is a resolution recognizing the funding framework proposed by HereTogether,

another is an ordinance imposing the personal income tax, and the third is a resolution referring the tax to the May ballot.

The regional income taxes expected to be proposed by Metro would be virtually unprecedented. TriMet charges a personal income tax on self-employed residents in addition to a payroll tax on businesses. The only city in the region that currently charges a personal income tax is Portland, which charges a \$35 art tax on residents who earn more than the poverty level. Portland and Multnomah County charge business income taxes, while Washington and Clackamas counties do not. Most other cities impose business license fees, some based on the size of the businesses.

[You can find the measure here.](#)

Regional Arts & Culture Council rebuilding after lay-offs

By Jason Vondersmith

Saturday, February 22, 2020

Portland nonprofit puts focus on fundraising, outreach, advocacy with new executive director Madison Cario.

Times are changing for the Regional Arts & Culture Council, long known in the Portland community for helping individuals and groups with fundraising, promoting public art projects and fostering arts education.

Madison Cario, who was hired a year ago as RACC executive director, wants to look at arts and culture holistically and how RACC can advocate for more funding.

It's not any news flash that artists often deal with economic challenges, and Cario understands the predicament, which is compounded by high rents and little guaranteed income. And it's a matter of representing the work of historically underserved and marginalized communities and promoting the "the larger ecosystem," including Portland and the Pacific Northwest.

"It's a realignment of mission and purpose," Cario said. Changes include the laying off of 15 employees, eliminating five positions and hiring for 15 positions that better address RACC's goal of streamlining the organization.

"We're trying to balance business with the people," Cario said, and go forward "incubating new ideas, innovating the role of an arts council in today's world."

RACC is a nonprofit organization supported by the city of Portland, private donors, Metro and Multnomah, Washington and Clackamas counties.

A specific change is the shifting of the administration of the Right Brain Initiative, which works with school districts and schools to encourage arts, to the Young Audiences of Oregon and Southwest Washington.

The Arts Impact Fund (formerly Work for Art) campaign, in which RACC has partnered with local businesses to raise money, will continue through the fiscal year, but there'll be changes to the giving component.

A new platform for viewing RACC's public art collection is going to be developed to make it more user friendly. And, a cultural asset map of theaters, rehearsal spaces and arts in schools also will be created.

Cario has led the organization's movement to spread money around to more individuals, groups and companies in the past year.

And Cario wants to bring together artists, collectives and private companies such as creative tech firms and sports teams on projects to make "magic."

The RACC board of directors hired Cario to make substantial changes.

"I think the community and people we serve will feel a change over the next five months," Cario said. "We're focusing on what we do. New fundraising and advocacy is going to take awhile; it'll be a year and a half to recognize the new dollars in the door.

"We have a good problem in grantmaking — we have more applications than we can handle. We did a good job of getting the word out, but now what? Last year we shifted the pie, now we need to grow the pie. It's been flat for 10 years."

The proposed changes are responsive to the city of Portland's audit of RACC in 2018 and the city's current budget priorities.

Cario also points out that the Arts Tax can be leveraged for good uses.

RACC had a budget of a little more than \$10 million last year.

"These changes respond to what we are seeing and hearing from our community, and position RACC to better serve our region today and in the future," said RACC board chair Linda McGeady.

Said Chloe Eudaly, Portland arts commissioner: "When RACC connects artists with resources, opportunities and each other, our communities become stronger. We have a vision of establishing RACC as a champion for arts and culture locally, regionally and nationally."

There'll be a "State of the Arts" report to the Portland City Council in the near future.

Landlords sue to block new Portland tenant protections

By Jim Redden

February 21, 2020

The FAIR ordinance is intended to increase housing opportunities for rents, but federal lawsuit says it is unconstitutional and will make the affordable housing crisis worse.

An organization representing landlords is filing a federal lawsuit to overturn a Portland ordinance intended to provide more housing options for renters.

Among other things, the Fair Access in Renting ordinance creates a first-come-first-served system for rental applications, caps the income-to-rent ratio landlords can require of their tenants, and places limits on the ability of landlords to turn down a potential renter because of their criminal and credit histories. It is scheduled to take effect on March 1.

But on Feb. 21, Multifamily NW announced is challenging the ordinance in U.S. District Court. A lawyer for the organization said the ordinance violate the Oregon and U.S. constitution, and will prompt many landlords to sell their rental properties, making affordable housing crisis worse.

The ordinance was approved by the City Council in June 2019. It was sponsored by Commissioner Chloe Eudaly. Her office did not immediately respond to a request for comment.

"Portlanders deserve choice in housing," said Jill Gibson of Lynch Conger LLP. "We cannot expect private housing providers who provide middle and high-end housing to operate as affordable housing providers with none of the protections from additional risk. The ordinances are an unreasonable combination of being strict and vague. Many housing providers who are concerned they will misinterpret the ordinances and violate the new laws have already resolved to leaving the housing industry entirely, further crunching Portland's housing crisis."

"Without providing enough direction, the FAIR ordinance treats the serious processes of tenant screening and security deposits as a kind of choose your-own adventure," said Deborah Imse, executive director of Multifamily NW. "This is unacceptable, as rental housing and finding a home is not a game to Portlanders. Portlanders deserve laws that are well-thought-out, that give enough clarity for renters to understand their rights and enough direction for housing providers to be able to follow them."

Multifamily NW was founded in 1992 and the Metro Multifamily Housing Association to represent residential property managers, owners, and vendors throughout Oregon and Southern Washington, including Portland. Its members manage over 200,000 units.

[You can learn more about the FAIR ordinance here.](#)

Willamette Week

Fewer Fans of Portland's Pro Soccer Teams Drive to Games Than Expected, But They Still Hog On-Street Parking

*By Nigel Jaquiss
February 23, 2020*

City Council will receive an update on Providence Park traffic impacts this week.

There's good news and bad news in a recently completed 37-page report on the traffic impacts of Portland's wildly popular pro soccer teams, the Portland Timbers and Thorns.

The Timbers sell out every game and the Thorns are by far the biggest draw in the National Women's Soccer League. The teams' popularity caused ownership in 2019 to expand the number of seats from 21,144 to 25,218.

As part of a good-neighbor agreement with nearby homeowners and businesses, Peregrine Sports, which owns the teams, presents an annual traffic management report to City Council. That presentation is scheduled for Feb. 26 but the report is available now.

First, the good news: A significantly smaller share of fans drive to games than officials had anticipated.

The bad news, for surrounding neighbors and businesses: A lot more of those who did drive used on-street parking than officials expected.

"Overall, 2,028 fewer fans drove to games than the [Comprehensive Transportation Management Plan] 2019 target," the report says. "However, more vehicles parked on-street in 2019, missing the target by 308 cars."

In other words, the games brought a lot fewer vehicles to the neighborhood than expected—eight percentage points fewer—but the drivers who came chose on-street parking rather than nearby garages and off-street lots.

"Many fans do not use off-street facilities because they do not know there are available spaces, or they are not allowed to park there," the report concluded. "More work is needed to shift driving fans away from neighborhood streets to underutilized off-street parking."

A \$5.9 Million Lawsuit Claims That Portland's Lax Enforcement of a Parking Policy Resulted in the Death of a Motorcyclist

*By Shannon Gormley
February 22, 2020*

The suit seeks millions in damages for the motorcyclist's estate, and a declaration that Portland must provide parking setbacks at all intersections.

A \$5.9 million lawsuit filed against the City of Portland claims that the city is ignoring Oregon law by allowing drivers to park at the edge of intersections.

Advocates have long criticized Portland's lax enforcement of a state law that prohibits cars from parking within 20 feet of an intersection, saying that it reduces visibility and makes streets unsafe. However, the law allows "road authority" for individual cities, a clause Portland leans on to only mark some intersections with yellow-painted curbs.

On Feb. 20, Portland injury lawyer Scott Kocher filed a suit alleging that the lack of enforcement is negligence, and led to the wrongful death of a motorcyclist last year. First reported by Bike Portland, the lawsuit seeks \$5.9 million in damages for the motorcyclist's estate, and a declaration that Portland must provide parking setbacks at all intersections.

"It's a documented problem," Kocher tells WW. "And this crash illustrates that in the most tragic way."

The plaintiff is a representative for the estate of Elijah Coe, a motorcyclist who was killed by a collision with a car last year.

On May 3, 2019, Coe was riding his motorcycle towards Southeast 17th Avenue and East Burnside Street when a driver, Eric Whitfield, pulled out into the intersection, attempting to turn left and head westbound on Burnside. Coe was able to swerve around the car, but collided with another vehicle in the opposite lane. The crash was recorded by surveillance cameras.

The lawsuit alleges that the crash could have been avoided if cars hadn't been legally parked at the corners of the intersection, blocking Whitfield's view.

It also challenges Portland's interpretation of the road authority clause, arguing that the limited enforcement violates federal law, previous court rulings and city and state codes. The complaint also claims that it violates Portland Bureau of Transportation's enabling statute to provide "reasonably safe" streets: "This duty is fundamental to PBOT's role as a transportation agency and is not subject to any excuse, justification, or loophole."

"I think it's a very unusual argument that a general statute would supersede a specific statute," says Kocher.

City transportation spokespeople declined to comment on pending litigation. Neither could Commissioner Chloe Eudaly, who oversees the transportation bureau, could not immediately be reached.

Kocher believes that local authorities have avoided the issue because reducing street parking in Portland is an unpopular topic.

"This isn't millions of dollars to solve a problem, it's a question of political will," he says. "We have to realize that safety is more important than parking."

After Delaying a Vote, the Regional Government Metro to Refer a Homeless Services Measure to the May Ballot

*By Rahcel Monahan
February 21, 2020*

The vote will be Tuesday. Metro had considered a smaller measure this week, but a math error forced Metro to reanalyze the proposal. Advocates had objected as well to a smaller measure.

The regional government Metro is expected to refer a \$250 million a year measure to the May ballot for funding homeless services, advocates for the measure announced today.

It's been a chaotic week for the homeless services measure that Metro has been preparing for the May ballot.

The Here Together Coalition had been pushing for 2 percent tax on all income earned by high-income households.

Metro will instead refer a 1 percent marginal tax, so income above \$250,000 for joint filers (and above \$125,000 for single filers) will be taxed. And there will also be a new business income tax, with an exemption for small businesses. The vote is scheduled for Tuesday afternoon.

That package is expected to have the backing of Portland's business community.

The Portland Business Alliance had helped push for the measure but had objected to the 2 percent high-income earner tax, favored by advocates. The board of PBA backed the taxing mechanisms announced today but has not taken a formal position on the measure.

"This agreement represents countless hours of active engagement by our region's leaders and provides a more resilient, progressive funding mechanism so that the measure does what it's drafted to do — help those who need it most," said Andrew Hoan, president and CEO of PBA, greater Portland's Chamber of Commerce. "As the region's largest and most diverse business community, we are proud to be long-time collaborators with all those committed to solving chronic homelessness."

The backing of the business community is potentially the most significant announcement to come today, it had been previewed on the House floor, when Speaker Tina Kotek referred a bill to allow Metro to impose a 2 percent income tax to committee to die, citing an agreement between PBA and advocates as well as Metro.

The PBA's backing could mean the bill faces limited opposition in the May primary.

The decision comes three days after Metro unexpectedly announced a staff recommendation for a smaller measure—which it originally projected would raise \$175 million a year. But the math on that recommendation was wrong by at least \$40 million.

That error, along with advocates' objections to a smaller measure, forced a reconsideration.

WW reported yesterday that Metro Council President Lynn Peterson told a roomful of key stakeholders on Wednesday that she would back a \$250 million a year measure.

Metro had declined to confirm her commitment to a larger measure as recently as yesterday, but her statement today backed the agreement.

"This groundbreaking agreement makes it clear – everyone agrees that this issue is urgent and solvable," said Metro Council President Lynn Peterson. "Through a marginal tax on high income earners, and a small tax on businesses that exempts small business, we can, and will, pay for the services needed to meaningfully address homelessness in greater Portland."

The announcement today was accompanied by statements from elected officials of the three counties and Portland as well as Here Together:

"It is a rare moment when leaders from the region come together in a unified voice. We found that voice today and I look forward to our community's future success in preventing and reducing homelessness," said Clackamas County Chair Jim Bernard.

"Today's historic agreement sets the table for an unprecedented — and compassionate — regional response to homelessness. The challenge before us cuts across county lines and city limits, and demands we come together to act. We now have total agreement on that response," said Multnomah County Chair Deborah Kafoury.

"If we don't pass this funding measure, our region will forever lose what's always made us so special," said Kathryn Harrington, Chair of the Washington County Board of Commissioners. "As a former Metro Councilor, I am confident that Metro's track record of efficient, prudent management and effective oversight will ensure that this measure will be effective at helping those most in need."

"No city, county, region, or state can do this work alone. By coming together, we send this message to our most vulnerable neighbors: you're not alone in your journey, we're here to help," said Portland Mayor Ted Wheeler.

The advocates for the measure celebrated reaching the deal. "We know what works to address this issue, and we only needed commitment to scale up what works. Now, we know how we're going to make it happen," said said Katrina Holland, HereTogether Advisory Committee chair, and Executive Director of JOIN.

Portland Housing Bond Produced Just 51 New Units in 2019 But Pipeline Full for Future Years

*By Nigel Jaquiss
February 20, 2020*

Bond funds paid for a new 51-unit building and preserved an existing 263-unit development.

The Portland Housing Bureau yesterday announced the results of its efforts to invest funds from a 2016 housing bond which provided the agency \$258 million to expand the city's deficient supply of affordable housing.

The results: PHB says that it added 314 new units last year and has another 1,110 units in early stages of development. The good news is the total of 1,424 units will exceed the 1,300-unit goal bond proponents established earlier.

The slightly less good news is this: Of the two projects counted toward the goal in 2109, the larger one, the 263-unit Ellington, was a pre-existing project the city purchased for \$47 million. The units will now be preserved as permanently affordable, which is a big win, but the acquisition does not add to the number of housing units in the city. (Bond proponents were clear from the outset that PHB would seek both to preserve existing unit and when possible, construct new ones.)

The second project, a 51-unit East Burnside Street apartment building, is sort of a hybrid of preservation and new construction: it was already under construction when PHB agreed to buy it when it was nearly complete.

So for 2019, the units PHB is counting toward the bond's goal would have existed even if the bond never passed. The 10 projects in various stages of development, however, mostly represent new construction that would not have happened otherwise. Details on those projects can be found here.

Lime Has Significantly Dropped Pay Rates for the Contractors Who Charge its Scooters

*By Shannon Gormley
February 20, 2020*

In Portland, the bottom rate for "juicers" has dipped to \$2 per scooter.

Charging e-scooters has never been a particularly lucrative side hustle. But the rates are only getting worse, in Portland and worldwide.

Most of Portland's e-scooter fleets are charged by freelancers who sign up through an app, then roam the city after dark, scooping up scooters to deliver to the company's warehouse or charge in their own home. Lime, one of the biggest companies with a fleet in Portland, refers to its chargers as "juicers."

When Lime first launched in Portland, the lowest rate was \$5 per scooter, and \$7 payouts were common. Now, the bottom rate for juicers has dipped to \$2.

A spokesperson from Lime told WW that contractor pay in Portland ranges from \$2-\$6 per task, and that juicers can check rates before accepting a task.

"Lime regularly makes minor adjustments across a range of business inputs in every market we operate, all with the goal of providing our riders a reliable, affordable and convenient transportation option," the company said in a statement. "Of course, every market is different and we scale Juicer pay to reflect local conditions."

Rates for charging Bird scooters have also dropped in several cities. But Lime in particular has faced backlash for the practice. Last week, Oakland juicers called for a strike when the company dropped the base rate from \$5 to \$3.30.

Elsewhere, Lime has eliminated juicing all together. In Paris, the company slowly decreased the per-scooter payout from 20 to 5 euros, then announced in September that it was canceling the program. Instead, the company will use third-party companies to manage contractors, similar to Amazon's delivery model.

Despite valuations in the billions, e-scooter companies have struggled to turn a profit, and the long-term viability of companies like Lime and Bird has been questioned. Last month, Lime pulled out of 12 cities around the globe and laid off around 100 employees.

And last week, Shared, which specialized in seated scooters, announced it was withdrawing from Portland's pilot program "due to extreme difficulty in further fundraising."

Lime is one of two companies that has participated in both of Portland's e-scooter pilot programs. With its second pilot program, which began last spring and has been extended to the end of 2020, Portland Bureau of Transportation hopes to address issues that arose during the first trial, like rider safety, riding on sidewalks and illegal parking.

Multifamily NW, Landlords Sue the City of Portland Over Tenant Screening Ordinance

*By Nigel Jaquiss
February 21, 2020*

The federal lawsuit says one of city Commissioner Chloe Eudaly's signature achievements violates landlords rights.

Multifamily NW, a trade association whose members own or manage more than 30,000 apartments in Portland, today filed a federal lawsuit in U.S. District Court in Portland alleging that a tenant-protection ordinance Portland City Council passed last year violates their rights.

"Plaintiffs are suing the City of Portland because it has passed laws that make management of rental housing so costly, burdensome, and risky that plaintiffs will have to either raise rents—to cover the additional costs and risks—or sell their rentals," the lawsuit says. "Plaintiffs are also suing the city because the new laws violate their civil rights of free speech and due process. Additionally, plaintiffs are already regulated by federal and state law, which preempts the city's conflicting new law."

At issue is a new policy City Council passed last June called the fair access in renting (FAIR) ordinance. The policy, driven by Commissioner Chloe Eudaly, requires landlords to relax various criteria, including criminal background checks, credit scores and income requirements, used to screen tenants.

Eudaly worked on the policy for more than two years, and its passage marked a major victory for her and the tenants' rights platform upon which she ran for office in 2016.

"It is no secret that Portland has a long history of overtly racist housing laws—the effects of which still shape our city today," Eudaly said before casting her vote in support of the ordinance. "What we fail to acknowledge more readily is that many of our current laws continue to uphold discriminatory practices. While the language may be less explicit now, the effect is just as clear: we continue to see communities of color, and especially black residents, pushed to the margins of our city and beyond at an alarming rate."

Eudaly anticipated the new policy might prompt a legal challenge. As WW reported, she asked the city attorney's office to evaluate that risk last year before passage. The response: the policy carried with it a "low to moderate risk of being invalidated by a lawsuit."

The lawsuit filed today, which names two individual landlords, Janet Newcomb and Jerry Mason, seeks an injunction to block implementation of the FAIR ordinance before it goes into effect March 1.

As is normally the case, City Attorney Tracy Reeve says her office will not comment on pending litigation. Eudaly's office also declined to comment.

The Daily Journal of Commerce

Green development takes on new meaning

By Chuck Slothower

February 21, 2020

In the future, perhaps the 2020s will be remembered as the decade Portland's urban buildings increasingly went green.

Not just green as in low carbon, high performance and high efficiency. Green as in leaves, vines and branches.

Tree Farm is the unmissable example. The six-story office and retail building at the Morrison Bridge's east landing has dozens of strawberry trees in massive planters attached to the exterior on all four sides.

"From a traditional real estate pro-forma sense, it doesn't make sense to put trees on the outside of the building," said David Davies, who leads Alta Urban Projects and served as Tree Farm's co-developer alongside Kevin Cavanaugh's Guerrilla Development. "But we knew we wanted to do something unique to bring beauty to the Central Eastside, where it's a built environment with warehouses."

By bringing nature to the urban fabric, Davies said, the greenery sets the building apart.

"It stands out," he said.

Final touches are being added to Tree Farm, with tenants expected to move in within days, Davies said.

Following in the development pipeline is the leafy proposed design for the Westwind Apartments, a publicly subsidized affordable housing project in Old Town Chinatown. The design, currently being evaluated by the Portland Design Commission and Bureau of Development Services, calls for plantings at each floor climbing the building's corner.

The greenery is designed to integrate into each level, providing residents a view with an organic element.

"No matter what level they're on, as they look out, in the foreground of their view of the context there's a little garden space," said Brian Cavanaugh, principal and co-founder of Architecture Building Culture, which is designing the project for Central City Concern in collaboration with Works Progress Architecture.

"It's sort of an exploration of biophilia and trying to bring greenery into the experience of the residents," he said.

It's not an entirely novel idea to put trees and other plants on building exteriors. Downtown Portland's PacWest Center, a 1960s concrete-and-steel tower, has sported an evergreen tree on

its mid-building terrace for decades. More recently, Mirabella, a South Waterfront residential tower, arrived with extensive landscaping stepping up the building.

In Seattle, The Spheres, occupied by Amazon, delivered a prime example of a sort of office greenhouse. Internationally, newer buildings in major cities have gone vegetal, like Milan's Bosco Verticale (Vertical Forest), a two-tower residential development built in 2014 with hundreds of trees and other plants. A regional government in China is constructing an entire Forest City of buildings that incorporate trees.

Locally, the greening of urban buildings has been spurred by environmental consciousness, advances in landscape architecture and the city of Portland's eco-roofs requirement. Since summer 2018, new buildings of 20,000 net square feet or larger within certain Central City zones are required to have eco-roofs.

The roofs are meant to process carbon and alleviate the urban heat island effect. The accumulation of new eco-roofs may significantly change the look and feel of downtown Portland in time. Whereas aerial shots of downtown Portland from the mid-20th century show vast expanses of surface parking lots, by the middle of the 21st century, the same views could look much greener.

"Green roofs are definitely here to stay," said Carol Mayer-Reed, principal at landscape architect Mayer/Reed Inc.

Reed distinguished between green roofs, which are intensively planted and have deep soil depths, from eco-roofs, which can be small, shallow sections atop a building. Green roofs have come a long way from years ago, when it was difficult to find an insurance carrier to cover landscape architects working on them, Mayer-Reed said.

Mayer/Reed Inc. designed landscaped planters incorporated into the face of the parking garage at Portland International Airport. The greenery arose from conversations with the Port of Portland board, which wanted a natural look after obscuring a view of Mount Hood, Mayer-Reed said.

Port officials and landscape architects settled on a design for extensively landscaped planters. "The Port board were willing to look at a landscaped statement that expressed how lush and beautiful our Pacific Northwest is," Mayer-Reed said. "That's been in for years and it's maintained really well."

Natural elements, done well, can enhance a built design.

"It can be quite effective and it can be beautiful and it can express seasonality," Mayer-Reed said.

Maintenance is the looming question for extensively landscaped projects, as some members of the Portland Design Commission have pointed out in recent hearings.

"It's an attempt to distinguish architecture and gain attention, and I do think the maintenance that's given to those will define how long they last," Mayer-Reed said.

Planters on the façade of the Tree Farm building in Southeast Portland serve to bring nature into the urban landscape, according to a project development partner. (Sam Tenney/DJC)

Trees in planters on the façade of Tree Farm, in Southeast Portland, bring nature into the urban landscape, according to a development partner. (Sam Tenney/DJC)

In the case of Tree Farm, the project team brought in strawberry trees – *Arbutus unedo*, a hardy evergreen – from Cistus Nursery on Sauvie Island.

“We needed something that would work on all four faces with different solar exposure,” said Westin Glass, development manager at Guerrilla Development.

The strawberry trees are not expected to grow much larger, keeping maintenance needs to a minimum.

“One thing we focused on was durability and low maintenance,” Davies said. “They’re not going to be enormous trees.”

Each planter has its own individually controlled irrigation as well as a fire sprinkler – something city officials requested when the project was evaluated while the Eagle Creek Fire raged.

The trees will likely be maintained by a winched cart system similar to those used by window washers, Glass said. It remains to be seen if Guerrilla Development’s in-house maintenance team will maintain the plants, or whether the ownership will hire an outside contractor.

The initial reception to the project has been strong, the developers said. Prospective office tenants have expressed interest, and the ground floor is filling up. Nicholas Restaurant will soon open a location in the building, and the building owners are in discussions with coffee-shop operators. A speakeasy-style bar is a possibility for another ground-floor space.

The trees and related systems added a “few hundred thousand dollars” to the approximately \$10 million construction cost of Tree Farm, Davies said. The building is otherwise simple – an intentional strategy to keep costs down and allow for competitive lease rates. Yet the trees add interest to an otherwise typical commercial building.

“It tends to soften buildings and brings interest and nature into the landscape where, at Tree Farm, tenants will be able to look out and see nice, beautiful trees,” Davies said. “And they’ll have nice views of downtown and the river.”

OPB

Lawsuit Claims Portland Illegally Lets Drivers Park Too Close To Intersections

*By Donald Orr
February 24, 2020*

For most drivers in Portland, the absence of a yellow curb or city parking sign is usually interpreted as a good place to park their cars.

But a new \$5.9 million lawsuit claims Portland is knowingly ignoring Oregon law by allowing drivers to park too close to crosswalks and intersections, blocking the view of oncoming pedestrians and traffic.

BikePortland first reported that Portland attorney and transportation activist Scott Kocher filed the lawsuit against the city on Tuesday. In the filing, Kocher alleges the city’s negligence caused the death of Elijah Coe, a motorcyclist who was fatally struck by a driver in May 2019.

“Eric Whitfield, who was driving northbound on SE 17th Avenue, stopped at the stop sign, and attempted to turn left (westbound) onto Burnside,” the lawsuit reads.

“People had parked vehicles along the curb as the City’s signage invited them to do, blocking Mr. Coe and Mr. Whitfield’s view of each other.”

According to the suit, Coe was able to swerve out of Whitfield's way, but was unable to get back into his eastbound lane before colliding with another vehicle. Coe died five days after the crash.

Kocher is suing the city and Whitfield on behalf of Coe's family seeking \$5.9 million in damages, requiring the city to provide parking setbacks at all corners in the city where it's required for safety in accordance with city code and state law.

According to Oregon law, cars are prohibited from parking within 20 feet of a crosswalk, marked or unmarked. The suit argues that the Portland Bureau of Transportation fails to enforce this law and to provide adequate sight distance at intersections, endangering people regardless of their mode of transportation.

A car sits parked next to a crosswalk in Southeast Portland, Ore., Saturday, Feb. 22, 2020. A \$5.9 million lawsuit claims Portland knowingly ignores Oregon law by allowing drivers to park too close to crosswalks and intersections.

A car sits parked next to a crosswalk in Southeast Portland, Ore., Saturday, Feb. 22, 2020. A \$5.9 million lawsuit claims Portland knowingly ignores Oregon law by allowing drivers to park too close to crosswalks and intersections.

Kocher claims Coe's death could have been prevented if the city complied with the law.

"We need to up our game a lot, there's no question," Kocher said. "We have to change how we think about streets and driving — we have to make Portland a livable, walkable place for everybody."

PBOT adopted its street safety action plan Vision Zero in 2016, in an effort to end all traffic fatalities in Portland by 2025.

But Coe was one of 49 people killed in 2019, the deadliest year for traffic fatalities on Portland streets since 1997.

"That's the same year that Oslo, Norway, had one person killed, and they're a similar-sized city," Kocher said. "So we know it can be done — it's just a question of political will, and people realizing that it's not acceptable to have people dying on our streets and being catastrophically injured."

Kocher cited a report from Willamette Week last year, where PBOT spokesperson John Brady claimed the lack of yellow curbs and parking setbacks was due to previous Portland leadership. Kocher questions the rationale behind that current standard.

"Why are we still doing it that way? What rules is he talking about? Because the rules I've found say [PBOT] can't do it that way," Kocher said.

Oregon law also gives individual cities "road authority," letting parking officers enforce rules at their discretion on roadways.

Dylan Rivera, a spokesperson with PBOT, declined to comment on the pending litigation.

Portland Landlord Coalition Sues City, Alleging Landmark Rental Screening Rules Violate Rights

By Rebecca Ellis
February 21, 2020

Just over a week before Portland's landmark rental screening rules are slated to take effect, a coalition of landlords have hit the city with a federal lawsuit that claims the sweeping regulations violate their rights, making property owning in Portland so risky and confusing that some threaten to leave the business altogether.

Passed by Portland City Council last June, the regulations — collectively called the Fair Access in Renting policies — eliminate the criteria landlords could potentially use to discriminate against tenants. They were crafted and championed by Commissioner Chloe Eudaly, who hailed them at the time of their passage as a way to address “the criteria that continue to be used in as a proxy for race,” namely criminal records, income requirements, and credit scores.

Portland Requires Landlords To Use First-Come-First-Served System To Choose Tenants

The new rules are extensive. In the lead up to the March 1 start date, the city has been offering classes to teach both tenants and landlords what they should be prepared for.

But landlords are arguing the restrictions are more cumbersome and confusing than what can be taught in a class. On Wednesday, Multifamily NW, a trade group representing the region's landlords, joined two other property owners — Janet Newcomb and Jerry Mason — in filing a lawsuit against the city, alleging that the rules have made property owning in the city a minefield.

“Plaintiffs are suing the City of Portland because it has passed laws that make management of rental housing so costly, burdensome, and risky that plaintiffs will have to either raise rents — to cover the additional costs and risks — or sell their rentals,” the suit reads.

Jill Gibson, who's representing the plaintiff for law firm Lynch Conger, said the ordinance is both exceptionally strict — with tenants able to sue if landlords misstep and exceptionally vague, with key phrases left undefined.

As an example, Gibson points to the rule that prevents landlords from processing applications for 72 hours after a rental is first advertised. But, she said, the ordinance does not define the word process, meaning landlords are confused if they can communicate with potential tenants about the property during the blackout period.

“We have heard from many housing providers that say they're afraid of the ordinance. They're afraid of making simple mistakes and their entire retirement is jeopardized and they don't know they can't comply, they don't even understand it,” she said. “Some landlords are just getting out.”

Gibson said she did not have numbers on how many landlords have decided to get out of the business because of the new rules,

Gibson added that Multifamily NW had been trying to work with the city to get clarity on the rules. But the city had not budged, leaving the firm to file a last minute lawsuit a mere week before the package of ordinances are supposed to go into effect.

The plaintiffs are asking a judge to delay the start date of the ordinance, while the litigation is pending.

Eudaly's office did not immediately respond to a request for comment. But it's unlikely the pushback from landlords comes as a shock to the commissioner, who has made tenant rights her signature issue.

In her closing statements last June after the rules passed, Eudaly said her staff had spent hours working with landlords big and small "imploing them" to make suggestions that everyone could agree on.

"The gist of what we heard from most landlords is that while everyone agrees that discrimination is wrong, no one wants to be compelled to do anything about it," she said.

Further Reading (linked below)

[Spaces: Arts groups and the Portland real estate game](#)

[Living amid mold, pests and filth, Stewart Hotel tenants sue bankrupt landlord](#)