

## ORDINANCE No. 188171

Amend Tourism Improvement District code to update definitions and change the due dates and delinquency dates to match those in the Transient Lodging Tax code. (Ordinance; amend Code Chapter 6.05)

The City of Portland ordains:

Section 1. The Council finds:

1. There has been significant confusion by Operators with the concept of due dates and delinquency dates, and especially the timing of the delinquency date. Changing the due date to the last day of the month and the delinquency date to the first day of the month that follows will simplify these two concepts and help Operators make timely tax payments. The due dates and delinquency dates in Chapters 6.04 and 6.05 need to match since these two assessments are remitted by hotel operators using the same form and calculation base.
2. It is the intention of City Council that the Tourism Improvement District follow the filing requirements, penalty and interest calculations and other administrative provisions of Chapter 6.04 – Transient Lodging Tax. If there is a conflict between the two chapters as a result of Chapter 6.04 being amended and similar amendments not being made to Chapter 6.05, the Revenue Division’s administrative authority includes clarifying any differences by either administrative rule or policy.

NOW, THEREFORE, the Council directs:

- a. Portland City Code Subsection 6.05.020 E is amended as follows:

**E.** “Hotel” means any structure, or any portion of any structure which is used, occupied, or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, ~~bachelor~~ boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private dormitory, hostel, fraternity, sorority, public or private club, and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 30-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

- b. Portland City Code Subsection 6.05.020 H is amended as follows:

**H.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room charged by the hotel, whether or not received by the hotel, in a Hotel for the occupancy of guest rooms only, value in money, goods, gift cards, labor, credits, property or other consideration of valued in money, without any deduction. Rent is considered to be the total amount represented to the Transient as the consideration charged for the occupancy including any accommodation fees, commissions or similar amounts paid to or withheld by a Person that

facilitates the reservation of a Room.

c. Portland City Code Subsection 6.05.020 J is amended as follows:

J. "Person" means any individual ~~a natural person, firm, partnership, joint venture, limited liability company, association, club, trust, estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in hHotel management activities within the District.~~

d. Portland City Code Section 6.05.070 is amended as follows:

A. The assessment imposed by this Chapter is due and payable on or before the 15<sup>th</sup> last day of the following month for the preceding three months; ~~and are delinquent on the last day of the month in which they are due.~~ If the last day of the month due date falls on a holiday or ~~weekend~~ Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked before the first business day that follows will be deemed to have been received on the due date. The Division has the authority to classify and/or ~~direct~~ district the ~~hHotels~~ for determination of applicable collection periods. ~~The initial return under this Chapter may be for less than three months preceding the due date based on the date of license issuance; thereafter returns shall be made for the applicable quarterly period, unless other reporting periods are required by the Division.~~

B. On or before the 15<sup>th</sup> last day of the month following each quarter collection, or month of collection if a Hotel is required or elects to file monthly returns, a return for the preceding ~~quarter period's~~ assessment on a form prescribed by the Division ~~shall~~ must be filed. The return ~~shall~~ must be filed in such form as the Division may prescribe ~~by every person liable for payment of the assessment.~~

C. Returns ~~shall~~ must show the amount of assessment owed for the ~~quarter period.~~ The Division may require returns to include additional information to explain the assessment calculation ~~show the total rentals upon which the assessment was calculated, gross receipts of the hotel for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.~~

D. The ~~p~~Person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.

E. For good cause shown, the Division may extend, the time for making any return or payment of the assessment for a ~~period not to exceed one month.~~ No further extension ~~shall~~ will be granted, except by the ~~Division~~ Director. Any person granted an extension ~~shall~~ will pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month or reduction for any prepayments or credits available. If an extension is granted and the assessment and interest due is not paid by the end of the extension granted, then the interest ~~shall~~ will be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.

F. The Division, if deemed necessary in order to ensure payment or facilitate collection by the

Division of the amount of assessments in any individual case, may require returns and payment of the amount of the assessments for other than quarterly periods. If a Hotel is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.

e. Portland City Code Section 6.05.100 is amended as follows:

**A. Original Delinquency.** Any Licensee that has not been granted an extension of time for remittance of the assessment due and ~~which~~ who fails to remit any assessment imposed by this Chapter ~~prior to the delinquency date shall~~ on or before the due date will pay a late penalty of 10 percent of the amount of the assessment due in addition to ~~the amount of the assessment.~~ There is no grace period between the due date and the assessment of penalty and interest; the day following the due date is considered to be the delinquent date.

**B. Continued Delinquency.** Any Licensee ~~which has not been granted an extension of time for remittance of assessments due, and which failed~~ who fails to pay in full on or before the due date of an original delinquency notice will ~~any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall~~ pay a second delinquency ~~late~~ penalty of 15 percent of the amount of the assessment due plus all penalty and interest assessments at the time of the continued delinquency calculation ~~the amount of the 10 percent late penalty first imposed and any interest assessed.~~

**C. Fraud.** If the Division determines that the nonpayment of any remittance amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the ~~amount of the~~ assessment shall be added ~~thereto~~ in addition to the late penalties stated in Subsections A. and B. of this Section and interest stated in Subsection D of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculation.

**D. Interest.** In addition to the ~~late~~ penalties imposed above, any Licensee that fails to ~~remit~~ file or pay any assessment imposed by this Chapter ~~shall~~ will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the assessment due from the first day following the original due date on which the remittance first became delinquent until paid. Interest shall be compounded monthly until the amount due is paid in full.

**E. Late Penalties and interest merged with assessment.** Every penalty imposed and such interest as accrues under the provisions of this Section ~~shall~~ will be merged with and become a part of the assessment ~~herein~~ required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.

**F. Petition for Waiver.** Any Licensee that fails to ~~remit~~ pay the assessment ~~herein~~ levied within the time ~~herein~~ stated shall must pay the tax, penalties and interest assessed; herein stated, provided, however, the ~~h~~Hotel may petition the Division for waiver and refund or credit of all or part of the penalty assessed or any portion thereof and the Division may, if a good and sufficient reason is shown, waive some or all of and refund or credit to another

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~~period the penalty assessment or any portion thereof.~~ Interest will not be waived except by written policy.

Passed by the Council: DEC 21 2016

Mayor Hales

Prepared by: Terri Williams

Date Prepared: November 14, 2016

**Mary Hull Caballero**

Auditor of the City of Portland

By

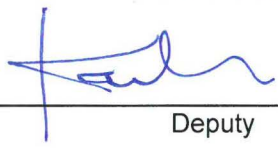
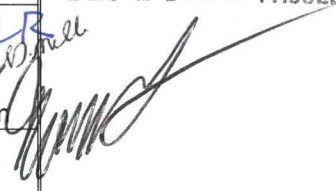


Deputy

1404 1441

Agenda No.  
**ORDINANCE NO. 188171**  
Title

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<b>INTRODUCED BY</b> Commissioner/Auditor:	CLERK USE: DATE FILED <u>DEC 06 2016</u>
<b>COMMISSIONER APPROVAL</b>	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Hales	By:  <u>12-12-16</u> Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
<b>BUREAU APPROVAL</b>	<b>ACTION TAKEN:</b> DEC 14 2016 PASSED TO SECOND READING DEC 21 2016 9:30 A.M
Bureau: Revenue & Financial Svcs Bureau Head: Ken Rust, CFO Fred Miller, CAO Revenue Division: Thomas Lannom	
Prepared by: Terri Williams Date Prepared: 11/21/2016	
<b>Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date <b>12/7/2016</b>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____  Total amount of time needed: _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/>  Total amount of time needed: <b>30 min for both 6.04 and 6.05 amendments</b> (for presentation, testimony and discussion)

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