

UPDATE INFORMATION

Vols. I & II – Portland City Code

March 31, 2017 – Quarterly Update

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Section if you have questions: 503-823-4082.

Previous Update Packet December 31, 2016

CODE OF THE CITY OF PORTLAND, OREGON
Insertion Guide for Code Revisions
Office of the City Auditor 503-823-4082
1st Quarter 2017 (March 31, 2017)

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2.14.080 City Auditor's Duties.

The City Auditor is authorized to adopt, amend and repeal administrative rules, policies, procedures and forms for the regulation and enforcement of this Chapter, including but not limited to prescribing forms for registration and reporting, determining the method for filing, conducting appropriate inquiry and audit of reports or statements for completeness and accuracy, establishing fees for late filing or non-filing, and imposing civil penalties for non-compliance.

2.14.090 Penalties for Violation of this Chapter.

- A.** A person who fails to report as required by this Chapter shall be subject to a civil penalty and other administrative sanctions until the registration or reporting is complete and in compliance with this Chapter.
- B.** A person who provides false or misleading information may be subject to a civil penalty and other administrative sanctions.
- C.** A person who violates any section of this Chapter may be subject to a civil penalty of up to \$1,000 per violation.

2.14.100 Enforcement.

The City Auditor may request that the City Attorney initiate action in Multnomah County Circuit Court to enforce the provisions of this Chapter, including collection of any unpaid fees or civil penalties. Upon such a request by the Auditor, the City Attorney shall make a determination of whether facts supporting a prima facie enforcement action exist. If so, the City Attorney shall either initiate an enforcement action on behalf of the City or shall retain outside counsel to work with the Auditor to do so. The City may seek enforcement of all provisions of this Chapter in the enforcement action, including but not limited to recovery of all fees and civil penalties assessed under this Chapter as well as enforcement of any other provision of this Chapter. In any enforcement action, the City shall be entitled to recover any costs and attorneys' fees incurred as a result of the violation of this Chapter.

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CHAPTER 2.16 - ELECTION REFORM

(Chapter added by Ordinance No. 188152, effective
January 13, 2017.)

Sections:

- 2.16.010 Definitions.
- 2.16.020 Public Election Fund Established.
- 2.16.030 Administrative Rules, Director’s Duties and Authority.
- 2.16.040 Contribution and Expenditure Requirements for Participating and Certified Candidates.
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- 2.16.170 Hearings.
- 2.16.180 Implementation.

2.16.010 Definitions.

As used in this Chapter, unless the context requires otherwise:

- A. “Allowable contribution”** means a monetary donation of at least \$5 but no more than \$250 in support of a participating or certified candidate that is:
 - 1. Made by an individual;
 - 2. Made during the election cycle in which the candidate is seeking office; and
 - 3. Acknowledged by documentation, as specified by administrative rule.
- B. “Campaign finance entity”** means a principal campaign committee registered with the Oregon Secretary of State.
- C. “Candidate”** means:
 - 1. An individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual’s consent, for nomination or election to public office;

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2. An individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual's behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot.
- D.** “**Certified candidate**” means a candidate running for a covered office who is certified as eligible to receive public contribution matching from the Fund.
- E.** “**Contested election**” means an election in which there are at least two candidates for a covered office who have a campaign finance entity. Contested election includes a special election held to fill a vacancy in a covered office.
- F.** “**Contribution**” has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter's adoption.
- G.** “**Covered office**” means the office of Mayor, Commissioner or Auditor.
- H.** “**Director**” means the Director of the Office of Neighborhood Involvement or the Director's designee, and includes any individual or entity with whom the City contracts to administer and enforce this Chapter or a portion thereof.
- I.** “**Election cycle**” means the primary election period and the general election period for the same term of a covered office. For a special election, it means the special nominating election period and the special runoff election period.
- J.** “**Expenditure**” has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter's adoption.
- K.** “**Fund**” means the Public Election Fund.
- L.** “**General election matching period**” means the period beginning 20 days before the primary election and ending 21 days before the general election. The general election matching period for a special runoff election must be set by administrative rule.
- M.** “**General election period**” means the period beginning the day after the biennial primary election and ending the day of the biennial general Election.
- N.** “**Independent expenditure**” means an expenditure by a person for a communication in support of or in opposition to a clearly identified candidate for City office that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or

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authorized committee of the candidate. The terms “expenditure”, “clearly identified” and “agent” and the phrases “communication in support of or in opposition to a clearly identified candidate or measure” and “made with the cooperation or with the prior consent of, or in consultation with or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate” shall have the meanings set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.

- O.** “**Individual**” means a natural person.
- P.** “**In-kind contribution**” has the meaning set forth in the Oregon Administrative Rule 165-012-005 at the time of this Chapter’s adoption.
- Q.** “**Matchable donor**” means an individual 18 years of age or older who resides within the City limits of the City of Portland, whose residency is verified pursuant to criteria established by the Director, and who can legally contribute to campaigns under state and federal law. The Director may use voter registration as the sole means of verifying residency if the Director determines other methods are not reliable or expedient. Matchable donors may only have their contributions matched for one candidate in each contested election in each matching period.
- R.** “**Non-participating candidate**” means a person who is running for a covered office who chooses not to apply to be a certified candidate, applies to be a certified candidate but fails to qualify, or a certified candidate who declines to accept a public contribution.
- S.** “**Notice of intent**” means a notice filed with the Director that a candidate intends to seek qualification as a certified candidate.
- T.** “**Participating candidate**” means a person who is a candidate for a covered office and who seeks to be a certified candidate in a primary election or general election. Limitations imposed on a participating candidate apply during the entire election cycle, both before and after filing a notice of intent to participate, whether or not the candidate has announced an intention to seek public contribution matching, and continue to apply once the candidate becomes a certified candidate.
- U.** “**Primary election matching period**” means the period of time beginning July 1 of the year preceding the primary election for the office the candidate seeks and ending 21 days before the date of the primary election. The primary election matching period for a special nominating election must be set by administrative rule.
- V.** “**Primary election period**” means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.

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- W.** “**Public contribution**” or “**public contribution matching**” means money disbursed from the Fund to a certified candidate.
- X.** “**Publicly funded campaign account**” means a campaign finance account established by a candidate for the exclusive purpose of receiving allowable contributions, public contribution matching and seed money contributions and spending funds in accordance with this Chapter.
- Y.** “**Seed money contribution**” means a contribution that is not an allowable contribution or in-kind contribution, which is received by a participating candidate before filing a notice of intent. A loan from the candidate or the candidate’s spouse is considered a seed money contribution.
- Z.** “**Special nominating election**” means a nominating election for a covered office held on any date other than the biennial primary election date when the Primary Election for that office would normally be held pursuant to City Charter Section 3-301.
- AA.** “**Special nominating election period**” means the period beginning on the day a vacancy exists or a notice of intent to resign from office is filed with the Auditor and ending the day of the Special Nominating Election.
- BB.** “**Special runoff election**” means a runoff election for a covered office held on any date other than the biennial general election date when the General Election for that office would normally be held pursuant to City Charter Section 3-301.
- CC.** “**Special runoff election period**” means the period beginning on the day after the special nominating election and ending the day of the special runoff election.

2.16.020 Public Election Fund Established.

- A.** The Public Election Fund is established, separate from the General Fund. All monies described in Subsection 2.16.020 E. shall be paid and credited to the Fund. Monies in the Fund shall be invested in the same manner as other City monies, and any interest earned shall be credited to the Fund.
- B.** The Director shall keep a record of all monies deposited into the Fund and the activity or program against which any withdrawal is charged.
- C.** If monies credited to the Fund are withdrawn, transferred, or otherwise used for purposes other than the program or activity for which the Fund is established, interest shall accrue on the amount withdrawn from the date of withdrawal and until the monies are restored.
- D.** Monies in the Fund shall provide, and are continuously appropriated for, the financing of election campaigns of certified candidates for nomination or election to City Office, and the payment of administrative, enforcement, and other expenses

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of the Director in carrying out the Director's functions and duties under this Chapter.

- E.** The following will be deposited in the Fund:
- 1.** All amounts appropriated to it by the City Council. The annual impact of the appropriation on the City general fund is limited to two-tenths of one percent of the general fund without raising any new taxes or fees;
 - 2.** Any unspent money remaining in a certified candidate's publicly funded campaign account after the candidate is no longer a candidate for a covered office that is returned to the Fund as provided in Section 2.16.100;
 - 3.** Any public contribution plus interest returned to the Fund by a participating candidate who withdraws from participation as provided in Section 2.16.110;
 - 4.** All interest earned on money in the Fund;
 - 5.** Civil penalties and other monies collected under Sections 2.16.160 and .170; and
 - 6.** Voluntary donations made directly to the Fund.

2.16.030 Administrative Rules, Director's Duties and Authority.

Before any administrative rules proposed by the Director may go into effect, the Director must submit the rules to Council for consideration and approval. The rules proposed by the Director must specify:

- A.** How and when documentation for allowable contributions from contributors must be submitted to the Director;
- B.** The documents that must be filed with the Director for certification;
- C.** The allowable uses of money in a publicly funded campaign account; and
- D.** Other policies necessary to implement this Chapter, including but not limited to:
 - 1.** Contested elections involving special elections, recounts, vacancies, or withdrawals, including qualification, certification, and disbursement of Public Election Fund revenues and return of unspent revenues;
 - 2.** Obtaining allowable contributions and matchable contributions;
 - 3.** Certification as a certified candidate;
 - 4.** Collection of revenues for the Public Election Fund;

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5. Distribution of Fund revenues to certified candidates;
6. Investigation and enforcement procedures for misuse of public funds;
7. Penalty matrix detailing penalties for potential violations of this Chapter;
8. Return of Fund disbursements, penalties, and other monies to the Fund;
9. Inspection of reports and documents for compliance with this Chapter; and
10. Investigation of alleged violations of Chapter 2.16.

2.16.040 Contribution and Expenditure Requirements for Participating and Certified Candidates.

- A. Before accepting any allowable, seed money or in-kind contributions governed by this Chapter, a participating candidate must establish a publicly funded campaign account for the candidate for the purpose of receiving contributions and making expenditures in accordance with this Chapter.
- B. Before accepting any allowable contribution governed by this Chapter on which a participating candidate intends to rely for certification under Section 2.16.050 and seek a public contribution match, a participating candidate must:
 1. File a notice of intent with the Director after the primary election matching period begins and before the filing deadline for the primary election for the covered office. For a special nominating election, filing deadlines for the notice of intent will be set that seek to provide adequate time for candidates to qualify for public contribution matching; and
 2. Attend mandatory training provided by the City. The candidate's treasurer must also attend the training.
- C. A participating candidate may accept up to \$5,000 total in seed money contributions before filing a notice of intent. A participating candidate may not accept seed money after filing a notice of intent. Certified candidates may not accept seed money contributions.
- D. Participating and certified candidates may accept in-kind contributions valued at no more than \$20,000 for the primary election period or special nominating election period and no more than \$20,000 for the general election period or special runoff election period. The contribution of paid time for a supervisor of volunteers does not count toward the \$20,000 limit on in-kind contributions for purposes of this Chapter. However, a participating candidate must provide documentation to the Director for such a contribution and it may be reportable as an in-kind contribution under state law.

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- E.** During an election cycle, participating and certified candidates may only accept allowable contributions, public contribution matching from the City, and seed money and in-kind contributions allowed by this Chapter.
- F.** Participating and certified candidates may not accept allowable contributions from any one individual totaling more than \$250 in the primary election period and \$250 in the general election period, except as provided in Section 2.16.150.
- G.** From the date the primary election period begins until filing a notice of intent, a participating candidate may not collect any contributions other than allowable, seed and in-kind contributions allowed by this Chapter and may only make expenditures from such contributions. After filing a notice of intent, participating and certified candidates may not make expenditures from funds other than public contribution matching and allowable, seed money or in-kind contributions, as allowed by this Chapter.
- H.** Participating and certified candidates must deposit all allowable contributions, public contribution matching and seed money contributions received into the candidate's publicly funded campaign account. Participating and certified candidates must deliver to the Director documentation, as specified by administrative rule, for each allowable contribution, seed money contribution, and in-kind contribution.
- I.** A participating or certified candidate may retain a preexisting campaign committee or political activities committee as long as the campaign committee or political activities committee does not accept contributions or make expenditures during the election cycle for which the candidate is seeking a covered office, other than a transfer of seed money to the candidate, consistent with Subsection 2.16.040 C.
- J.** Seed money loans from the candidate or candidate's spouse must be repaid with contributions that are not eligible for public contribution matching or for which public contribution matching is not requested.
- K.** The total contributions a participating or certified candidate may collect during the primary election period or special nominating election period, consisting of allowable contributions, public contributions, seed money and in-kind contributions, cannot exceed:

 - 1.** \$380,000 for a candidate for Mayor; and
 - 2.** \$250,000 for a candidate for Commissioner or Auditor.
- L.** The total contributions a participating or certified candidate may collect during the general election period or special runoff election period, consisting of allowable contributions, public contributions, seed money and in-kind contributions, cannot exceed:

1. \$570,000 for a candidate for Mayor; and
2. \$300,000 for a candidate for Commissioner or Auditor.

2.16.050 Requirements for Certification.

- A.** In addition to the requirements of Section 2.16.040 and the limitations in Section 2.16.120, to qualify as a certified candidate:
1. After filing a notice of intent, a candidate for Mayor must collect an aggregate total of at least \$5,000 in allowable contributions from at least 500 matchable donors.
 2. After filing a notice of intent, a candidate for Commissioner or Auditor must collect an aggregate total of at least \$2,500 in allowable contributions from at least 250 matchable donors.
 3. The participating candidate must have filed for office by petition as provided in Code Section 2.08.080.
- B.** A participating candidate must apply to the Director for certification not later than 28 days before the end of the primary election matching period, or for a special nominating election, 28 days before the election.

2.16.060 Director Determination.

- A.** The Director must certify a participating candidate if the Director finds that the election for the covered office is a contested election, the candidate has met the requirements of Sections 2.16.040, .050 and .120, the candidate has received the required aggregate total dollars of allowable contributions from the required number of matching donors for the office and the candidate has submitted all information required by this Code or by administrative rule.
- B.** Before certification, the participating candidate must submit at least the following information to the Director, along with other information as may be required by administrative rule:
1. A declaration from the candidate agreeing to follow the regulations governing the use of public contribution matching, allowable contributions, seed money and in-kind contributions; and
 2. A campaign finance report that includes:
 - a. A list of each allowable contribution received;
 - b. A list of each seed money and in-kind contribution received;

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- c. A list of each expenditure made by the candidate during the primary election matching period up to the time of filing; and
 - d. Other documentation required by administrative rule.
- C. The Director must make a certification determination no later than 10 business days after receiving information from the participating candidate necessary to determine compliance with the requirements of Subsections 2.16.060 A. and B. and Sections 2.16.040, .050 and .120. However, if the covered office is not a contested election at the time the participating candidate applies for certification, the Director will hold the application in abeyance until either the covered office becomes a contested election, in which case the Director will make a certification decision within 10 business days, or the filing deadline for the covered office expires, in which case the Director shall deny certification. Certification decisions may be challenged as provided in Section 2.16.170.
- D. A candidate may submit only one application for certification for any election.
- E. If the Director certifies a candidate, the Director will authorize an initial disbursement of a public contribution to the candidate's publicly funded campaign account.

2.16.070 Distribution of Public Contribution.

- A. Public contributions from the Fund will be distributed only in a contested election. The Director must distribute a public contribution from the Fund to each certified candidate in a contested election as follows:
 - 1. For a certified candidate for a covered office, the public contribution matching must equal:
 - a. \$6 for each dollar of the first \$50 of allowable contributions in aggregate from a matchable donor made after the candidate files a notice of intent;
 - b. No match for allowable contributions after the first \$50 in aggregate contributed by a matchable donor.
 - 2. The total public contribution payable to a certified candidate for a primary election or special nominating election may not exceed \$304,000 for a candidate for Mayor and \$200,000 for a candidate for Commissioner or Auditor. The total public contribution payable to a certified candidate for a general election or special runoff election may not exceed \$456,000 for a candidate for Mayor and \$240,000 for a candidate for Commissioner or Auditor.

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- B.** The Director must not distribute public contribution matching from the Fund to a certified candidate for:
1. Seed money contributions;
 2. In-kind contributions;
 3. Allowable contributions from matchable donors made before the candidate files a notice of intent;
 4. Allowable contributions from donors who are not matchable donors; or
 5. Allowable contributions from matchable donors whose donations to another candidate for the same contested election during the same election period have resulted in a request for public contribution matching for that other candidate.
- C.** Public contributions from the Fund will be distributed on at least four dates in addition to the initial distribution to each certified candidate upon certification during the primary election period or special nominating election period and on at least four dates during the general election period or special runoff election period. The final distribution for each election period will be 14 days before the election.
- D.** A certified candidate may collect allowable contributions, including allowable contributions from matchable donors for which the candidate may seek public contribution matching for the primary or special nominating election, until the end of the primary election matching period. A certified candidate may continue to collect allowable contributions, consistent with Sections 2.16.040 and 2.16.120, between the date the primary election matching period ends until the end of the primary election period or special nominating election period, but allowable contributions from matchable donors collected during this time will only be eligible for public contribution matching for the general or special runoff election if the candidate qualifies for the general or special runoff election, as provided in Subsection 2.16.070 E.
- E.** Certified candidates in the primary election or special nominating election who are nominated to the general election or special runoff election ballot in the same election cycle are eligible for public contributions as provided in this Section.
1. Certified candidates who reasonably expect to qualify for the general or special runoff election ballot may begin collecting allowable contributions for the general election or special runoff election on the first day of the general election matching period.
 2. After certification of the results of the primary or special nominating election, a certified candidate who qualifies for the general or special runoff

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ballot may use unspent funds in their publicly funded campaign account and seek public contribution matching for allowable contributions collected from matchable donors during the general election matching period.

3. A certified candidate may continue to collect allowable contributions, consistent with Section 2.16.040, from the end of the general election matching period until the end of the general election period or special runoff election period, but the contributions will not be eligible for public contribution matching.
- F. A certified candidate must submit documentation, as specified by administrative rule, for each allowable contribution from a matchable donor to the Director to receive public contribution matching. The Director must deposit the appropriate public contribution into a certified candidate's publicly funded campaign account on the next distribution date after the Director authorizes the public contribution matching.

2.16.080 Use of Contributions.

- A. A participating or certified candidate may only use the seed money, in-kind and allowable contributions and the public contribution matching for direct allowed campaign purposes related to the candidate's campaign for nomination or election to the covered office for which they are eligible to be or have qualified as a candidate. Guidelines regarding direct allowed campaign expenditures may be established by administrative rule.
- B. Public contributions distributed to a participating candidate and qualifying, seed money and in-kind contributions may not be:
1. Used to make any expenditures for personal use prohibited by ORS Chapter 260 and Oregon Administrative Rules;
 2. Contributed to, or for the purpose of supporting or opposing, any other candidate, political committee or measure;
 3. Used to make independent expenditures supporting or opposing any candidate, political committee or measure;
 4. Used in connection with the nomination or election of a participating candidate to any office or at any election other than the office or election for which the contributions were given;
 5. Used to pay any loans, debts, fines or penalties;
 6. Used to pay for consulting services to an individual, unless the individual is providing bona fide services to the candidate and is compensated at fair market value;

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7. Used for out of state travel;
 8. Certain vehicle-related expenses, including vehicle purchases, leases, rental, insurance, repairs or fuel. Vehicle mileage reimbursement for campaign purposes is allowed, using the standard rate used by the City for mileage reimbursement;
 9. Attorney, accountant and other professional service fees in conjunction with appealing penalties or decertification;
 10. Used for salary or payment, other than reimbursable expenses, to a family member;
 11. Used for gifts, not including campaign brochures, buttons, signs or other printed campaign material;
 12. Used to make payments in cash; or
 13. Used in a manner inconsistent with administrative rules.
- C.** Public contributions may not be used for election night and post-election parties; however, allowable contributions, seed money and in-kind contributions may be used for such events.
- D.** Contributions to civic and non-profit organizations from a participating candidate's publicly funded account are permitted only if the payment is for the purpose of attending a specific campaign event open to the public.
- E.** A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Director.
- F.** A participating candidate must provide the Director with reasonable access to the financial records of the candidate's publicly funded campaign account, upon request.

2.16.090 Adequate Funds.

- A.** If the Director determines that the amount deposited in the Fund will be insufficient at any point during the election cycle, the Director shall request the additional amount the Director estimates will be necessary from the City Council, subject to the annual appropriation limit detailed in Section 2.16.020.
- B.** If the total amount available for distribution in the Fund is insufficient to meet the allocations required by this Chapter, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

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2.16.100 Return of Public Contributions.

- A.** Within 15 days after the results of the primary election or special nominating election are certified, a certified candidate who is elected or is not certified to be on the ballot for the general election or special runoff election must return unspent money in the candidate's publicly funded campaign account to the Fund in proportion to the percentage of public to private contributions collected by the candidate, excluding in-kind contributions.
- B.** Within 15 days after the results of the general election or special runoff election are certified, all participating candidates must return unspent money in the candidates' publicly funded campaign accounts to the Fund in proportion to the percentage of public to private contributions collected by the candidate, excluding in-kind contributions.

2.16.110 Withdrawal.

- A.** A participating candidate may withdraw an application for a public contribution any time before the public contribution is received by the candidate's publicly funded campaign account.
- B.** A certified candidate may withdraw from participation if the candidate:
 - 1.** Files a statement of withdrawal with the Director on a form prescribed by the Board; and
 - 2.** Repays to the Fund any remaining funds in their account up to the full amount of the public contribution received, together with the applicable interest established by administrative rule.

2.16.120 Participating and Certified Candidate Restrictions.

A participating or certified candidate must not:

- A.** Accept a contribution, other than seed money or in-kind contributions as permitted by this Chapter, from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- B.** Accept one or more contributions from an individual totaling more than \$250 during the primary election period and \$250 during the general election period, other than seed money or in-kind contributions as permitted by this Chapter, except as provided in Section 2.16.150;
- C.** Make an allowable contribution from the candidate's personal funds to the candidate's principal campaign committee.

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- D.** Accept seed money or in-kind contributions in excess of the amounts established in Section 2.16.040.
- E.** Expend funds to benefit or advocate for another candidate;
- F.** Accept a loan from anyone for campaign purposes, other than a loan from the candidate or candidate's spouse within seed money limitations; or
- G.** Transfer funds:
 - 1.** To the candidate's publicly funded campaign account from any other campaign finance entity established for the candidate; and
 - 2.** From the candidate's publicly funded campaign account to any other campaign finance entity.
- H.** Solicit for or direct contributions to other campaign finance entities to support their own election.

2.16.130 Public Campaign Finance Commission.

- A. Duties.** The Public Campaign Finance Commission is hereby created. The Commission shall:
 - 1.** Provide assistance to the Director and Council in the development and implementation of the Public Election Fund. The Commission may make recommendations to the Director regarding administrative rules necessary to the effective administration of the code.
 - 2.** Make recommendations on adjustments to matching ratios, adjustments to contribution limits and other regulations to improve operation of public campaign finance.
 - 3.** At the request of the Director, advise the Director on administrative judgments, recommended policy changes, administrative rule development, and operation of the Public Election Fund.
 - 4.** Recommend to the Director for appointment hearings officers to review cases and make determinations under Section 2.16.160.
 - 5.** Adopt such operating policies and procedures as necessary to carry out its duties.
 - 6.** Prepare and submit to the Council a biennial report which shall contain an overview and evaluation of the Campaign Finance Fund during the previous election period.

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- B. Membership.** The Public Campaign Finance Commission shall consist of seven members who have demonstrated an interest in campaign finance funding and, insofar as possible, represent diverse interests and diverse communities. The Director shall solicit applications from the Office of Neighborhood Involvement and the general public in order to recommend nominees to Council for appointment.
- C. Appointments and Terms.** Public Campaign Finance Commission members shall be appointed by Council and serve 4 year terms starting January 1 of odd-numbered years, except that three of the initial appointments shall be for 2 year terms. Upon expiration of the term, a Commission member shall serve until reappointed or replaced. Members of the Commission are limited to a maximum of two full terms, except that members serving an initial term of less than 4 years may serve two subsequent 4 year terms. If a position is vacated during a term, it shall be filled for the unexpired term. Council may replace any member of the Commission for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.
- D. Meetings, Officers and Subcommittees.**
1. The Public Campaign Finance Commission shall meet at least four times per year and may meet more often as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with rules of procedure adopted by the Commission. Four members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Commission and to conduct any other Commission responsibilities. The election of officers shall take place at the first meeting of each calendar year.
 2. The officers of the Commission shall consist of a chairperson and a vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice-chairperson shall act as chair when the chairperson is not available.
 3. The Commission may form subcommittees comprised of Commission members which are authorized to act on behalf of the Commission for an assigned purpose.
- E. Attendance.** Members of the Public Campaign Finance Commission are expected to attend each meeting of the Commission. Council may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.
- F. Compensation.** Public Campaign Finance Commission members shall serve without compensation.

2.16.140 Additional Reporting.

- A. All candidates and political committees, including non-participating candidates, must report contributions and expenditure transactions electronically in the ORESTAR system in compliance with state law.
- B. Participating and certified candidates must file additional contribution and expenditure reports in the ORESTAR system as the City deems necessary to make certification and public contribution matching decisions in a timely manner, as established by administrative rule.
- C. In a contested election in which there is at least one participating or certified candidate, beginning on the 180th day before the election and ending on the 42nd day before the election, participating and non-participating candidates shall report contribution and expenditure transactions in ORESTAR within 14 days.
- D. In a contested election in which there is at least one participating or certified candidate, beginning on the 180th day before the election and ending on the 42nd day before the election, persons or political committees making an independent expenditure in an amount of \$1,000 or more, or independent expenditures in an aggregate of \$1,000 or more, supporting or opposing a candidate or candidates for nomination or election to City office shall report such expenditures in ORESTAR within 14 days.

2.16.150 Removal of Certain Contribution Limits.

If contributions to a non-participating candidate exceed the total contribution amounts in Subsection 2.16.040 K. for a primary election period or special nominating election period or the amounts in Subsection 2.16.040 L. for a general election period or special runoff election period, then any participating candidates for the same covered office may:

- A. Exceed the total contribution amounts in Subsection 2.16.040 K. or L. for the election period in which the non-participating candidate exceeds those amounts; and
- B. Accept up to \$500 in aggregate in allowable contributions from an individual during the relevant election period, notwithstanding the \$250 limit in Subsections 2.16.010 A., 2.16.040 F. and 2.16.120 B.

2.16.160 Penalties, Revocation of Certification and Repayment of Funds.

- A. Civil Penalties.
 - 1. The Director may impose a civil penalty as provided in this Section, in addition to any other remedies that are provided by this Code or other law, for:

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- a. Violation of any provision of this chapter by a participating or certified candidate; or
 - b. Failure to timely file a non-participating candidate or independent expenditure report or to include information required by Section 2.16.140.
 2. The City may establish a penalty matrix by administrative rule detailing civil penalties for potential violations of this chapter. A civil penalty imposed under this section shall not exceed \$10,000 for any violation except as otherwise provided in this Section. Limits on penalties imposed under this Section do not include interest. Penalties are subject to interest at a rate of 12 percent of the total amount per annum.
 3. The Director shall send a notice of proposed penalty to any candidate, person or political committee against whom the Director is imposing a civil penalty.
 - a. The notice shall describe the proposed penalty and outline the procedures for requesting a penalty hearing.
 - b. The notice shall be sent by both certified and regular mail.
 - c. If a penalty hearing is not requested, the proposed penalty shall become final on the date specified in the notice, which date shall be the first day following the last day to file a request for a hearing.
 4. If a civil penalty has been imposed under this Section against a candidate or the principal campaign committee of a candidate, the candidate shall be personally liable for the amount to be paid under this Section.
 5. If a civil penalty has been imposed under this Section against a political committee other than a principal campaign committee, the directors of the political committee shall be jointly and severally liable for any amount to be paid under this Section.
 6. Penalties may be paid from any private source. A penalty may not be paid from a candidate's publicly funded campaign account.
 7. Civil penalties may be paid at any time after receiving the notice of proposed penalty, but are due immediately after the penalty has become final.
 8. Penalties imposed under this Section are subject to interest at a rate of 12 percent of the total amount per annum.

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9. All moneys received under this Section for violations of any provision of this Chapter shall be paid and credited to the Fund.
10. At the request of the Director, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter, in addition to any other remedies provided by this Code or other law, in Circuit Court or other appropriate venue.

B. Revocation of Certification.

1. The certification of a participating or certified candidate against whom a civil penalty has been imposed for violation of Section 2.16.080 shall be revoked by the Director and the candidate shall not be eligible to receive public contributions from the Fund during the primary and general election periods, or special nominating and special runoff period during which the penalty is imposed. However, revocation of a candidate's certification is permissive, not mandatory, if all of the following conditions are met:
 - a. The candidate has been found to have committed only one violation of Section 2.16.080; and
 - b. It is the candidate's first violation of Section 2.16.080.
2. If it is determined that a participating candidate violated any other provision of this Chapter during the primary election matching period or after certification, the Director has the authority to revoke the candidate's certification.

C. Repayment of Funds.

1. A participating candidate against whom a civil penalty has been imposed for violation of Section 2.16.080 shall return to the Director an amount of money equal to all revenues distributed to the candidate from the Fund after the date the candidate was certified, plus interest on the total amount of revenues received at a rate of 12 percent per annum, in addition to the penalty and interest on the penalty.
2. The Director shall seek immediate recovery of public contributions for any violation of this Chapter.

2.16.170 Hearings.

- A. Purpose. The purpose of this Section is to provide persons or political committees adversely affected by administrative determinations and decisions made under this Chapter with a timely, effective, and impartial appeal and review of the determination. Hearings will be heard by a member of the outside panel of hearings

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officers recommended by the Public Campaign Finance Commission and appointed by the Director.

B. Types of Hearings.

1. Certification Hearings. A candidate who has received a determination denying certification or an opponent of a candidate who has been granted certification may challenge a certification decision by filing a written request for a hearing as outlined in Subsection 2.16.170 C.
2. Matching Fund Hearings. A candidate who has received a determination granting or denying public contribution matching or an opponent of a candidate who has been granted public contribution matching may challenge the public contribution matching decision by filing a written request for a hearing as outlined in Subsection 2.16.170 C.
3. Penalty Hearings. A candidate, person or political committee who has received a notice of proposed penalty from the Director may challenge the proposed penalty by filing a written request for a hearing as outlined in Subsection 2.16.170 C.

C. Requests for Hearings.

1. The written request for a hearing shall be filed with the Director not later than:
 - a. 7 days after the mailing of the determination for a certification or public contribution matching hearing; or
 - b. 7 days after the mailing of the notice of proposed penalty for a penalty hearing.
2. The request shall be filed pursuant to forms and procedures recommended by the Commission and adopted by rule. The written request shall contain either a copy of, or a full and complete description of, the decision or determination appealed and a statement of grounds upon which it is contended that the decision or determination is invalid, unauthorized, or otherwise improper, together with such other information as the Director may by require by rule.
3. No person or political committee other than those described in Subsection 2.16.170 B. may be a party to any hearing conducted under this Section.

D. Conduct of Hearings.

1. As provided in Section 2.16.130, the Public Campaign Finance Commission shall recommend to the Director for appointment an outside panel of

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hearings officers to review cases and make determinations under this Section.

2. The Director shall designate and appoint the hearings officers based upon the recommendations of the Public Campaign Finance Commission.
3. Written requests for hearings shall be filed with the Director within the deadlines established in Subsection 2.16.170 C. The Public Campaign Finance Commission shall coordinate with the hearings officer panel to assign a hearings officer to the case and set a hearing date within the timelines established in Subsection 2.16.170 D.4.
4. The date set for hearings under this Section shall be:
 - a. Not later than 7 days after the request for a certification or public contribution matching hearing is filed as outlined in Subsection 2.16.170 C.1.a.; or
 - b. Not more than 14 days after the request for a penalty hearing is filed as outlined in Subsection 2.16.170 C.1.b.
5. Notice.
 - a. In the case of certification or public contribution matching hearings requested under Section 2.16.170 C.1.a.:
 - (1) The Director shall give notice of receipt of a request for a hearing, together with a copy of the request, to all other candidates for the same office. The notice shall be sent not later than one business day after the request is filed with the Director.
 - (2) The Director shall give notice of the hearing, together with a copy of the request for a hearing, to the Person who requested the hearing and all other candidates for the same office. The notice shall be sent not later than one business day after the date is set for the hearing. The notice shall specify the time, date, and place set for the hearing.
 - (3) The notices required in Subsections 2.16.170 D.5.a.(1) and (2) may be combined.
 - b. In the case of penalty hearings requested under Subsection 2.16.170 C.1.b., the Director shall give notice of the hearing to the person or political committee who requested the hearing. The notice shall be sent not later than one business day after the date is set for the

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hearing under Subsection 2.16.170 D.4. The notice shall specify the time, date, and place set for the hearing.

- c. Notices may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by United States mail, phone, e-mail or other method authorized by rule. If notice is given by mail, such notice shall be deemed given and received three days (Sundays and holidays not included) after the notice is deposited in the United States mail. The failure of any Person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision, or order of the hearings officer.

- 6. The hearings shall be conducted in accordance with the provisions of Chapter 22.10, except as otherwise provided in this Section.

E. Order of the Hearings Officer.

- 1. The hearings officer shall issue an order not later than three business days after a certification public contribution matching or penalty hearing.
- 2. In the case of a certification hearing, the hearings officer may uphold or revoke the certification.
- 3. In the case of a public contribution matching hearing, the hearings officer may uphold or revoke public contribution matching, or modify a public contribution matching decision by revoking some or all public contribution matching or granting additional public contribution matching.
- 4. In the case of a penalty hearing, the hearings officer may uphold, revoke or modify the penalty.
- 5. The order of the hearings officer is a final decision of the City.
- 6. Judicial review of an order made under this Section shall be as provided in Title 22.

F. Return of Funds and Payment of Cost of Hearing.

- 1. If the certification of a candidate is revoked following a hearing under this Section, the candidate shall return to the Director an amount of money equal to all revenues distributed to the candidate from the Public Election Fund after the date the candidate was certified, plus interest on the total amount of revenues received at a rate of 12 percent per annum, in addition to the penalty and interest on the penalty.

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2. If public contribution matching is revoked, the candidate shall return to the Director an amount of money equal to the amount of revoked public contribution matching distributed to the candidate from the Public Election Fund, plus interest on the total amount of public contribution matching received at a rate of 12 percent per annum.
3. If the hearings officer or a court finds that a request for a hearing under this Section was made frivolously or to cause delay or hardship, the hearings officer or the court may require the person who filed the request for a hearing to pay costs of the hearings officer, court and opposing parties, and attorney fees of the opposing parties, if any.

2.16.180 Implementation.

This Chapter applies to election cycles beginning after the 2018 general election.

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- C. Single-unit housing not meeting the exemption requirements by selling over the established sale price at initial sale will have the tax exemption terminated according to Section 3.102.080 and require the applicant to repay any exempted taxes consistent with ORS 307.687.

3.102.070 Designation of Homebuyer Opportunity Areas.
(Repealed by Ordinance No. 186700, effective July 1, 2014.)

3.102.080 Termination of the Exemption.
If the Portland Housing Bureau determines that the single-unit housing fails to meet any of the provisions of ORS 307.651 to 307.687 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.681 through 307.687.

3.102.090 Implementation.
Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

**TITLE 3
ADMINISTRATION**

Chapter 3.103

**PROPERTY TAX EXEMPTION FOR
MULTIPLE-UNIT HOUSING DEVELOPMENT**

(Chapter replaced by Ordinance No. 187283,
effective August 5, 2015.)

Sections:

- 3.103.010 Purpose.
- 3.103.020 Definitions.
- 3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.
- 3.103.040 Program Requirements.
- 3.103.050 Application Review.
- 3.103.060 Application Approval.
- 3.103.070 Rental Project Compliance.
- 3.103.080 For-Sale Unit Compliance.
- 3.103.100 Termination of the Exemption.
- 3.103.110 Implementation.

3.103.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the inclusion of affordable housing where it may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.103.020 Definitions.

(Amended by Ordinance No. 188163, effective February 1, 2017.) As used in this Chapter:

- A.** “**Administrative Rules**” means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes, and procedures.
- B.** “**Applicant**” means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.
- C.** “**Regulatory Agreement**” means a low-income housing assistance contract recorded agreement between the owner and the Portland Housing Bureau stating the approval and compliance criteria of a project’s tax exemption.
- D.** “**Multiple-unit housing**” has the meaning set forth in ORS 307.603(5).
- E.** “**Owner**” means the individual or entity holding title to the exempt project and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any Regulatory Agreement and any compliance requirements under this Chapter.
- F.** “**Project**” means property on which any multiple-unit housing is located, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located upon the property.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

- A.** Multiple-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612 and the Administrative Rules.
- B.** However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved by Council.

3.103.040 Program Requirements.

(Amended by Ordinance No. 188163, effective February 1, 2017.) In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the project meets the following program requirements as further described in the program Administrative Rules:

- A.** Financial need for the exemption

**TITLE 3
ADMINISTRATION**

1. Rental projects. The project would not include low to moderate-income units because it would not be financially feasible without the benefit provided by the property tax exemption.
2. For-sale projects. The units receiving tax exemption will be sold to buyers meeting the affordability requirements contained in this Section.

B. Property eligibility

1. Projects must be located within the taxing jurisdictions of the City of Portland and Multnomah County.
2. Projects must conform to City of Portland's zoning and density requirements.
3. Projects must include 20 or more units.

C. Affordability

1. For rental projects, for applications received on or before December 31, 2018, during the term of the exemption, a minimum of 15 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 8 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. For applications received after December 31, 2018, during the term of the exemption, a minimum of 20 percent of the number of units or bedrooms must be affordable to households earning 80 percent or less of the area median family income, or a minimum of 10 percent of the number of units or bedrooms must be affordable to households earning 60 percent or less of the area median family income. The units meeting the affordability requirements must match the unit mix in the project as a whole in terms of number of bedrooms.
2. For projects containing for-sale units, those units receiving the exemption must not exceed the maximum price established under City Code Section 3.102.040 at initial sale and must sell to an initial homebuyer who income qualifies and occupies the unit as established under City Code Section 3.102.040. During the term of the exemption, the unit must be occupied by a homebuyer as established under City Code Section 3.102.040.

- D. Accessibility.** At least 5 percent of the affordable units in the project must be built to be Type A as defined in the Oregon Structural Specialty Code.

3.103.050 Application Review.

- A. The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.
- B. Applications for tax exemption must be submitted and approved prior to issuance of the project's building permit.
- C. Applications must include an application processing fee, to be established annually by the Portland Housing Bureau, including the fee to be paid to Multnomah County.

3.103.060 Application Approval.

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A. Applications will be considered based on the Inclusionary Housing Program requirements as per City Code Section 30.01.120.
- B. Portland Housing Bureau will take applications to City Council for approval in the form of an ordinance and deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.
- C. If construction of an approved project is not completed or an application for exemption is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

3.103.070 Rental Project Compliance.

(Amended by Ordinance No. 188163, effective February 1, 2017.)

- A. The owner of a rental project approved for exemption will be required to sign a Regulatory Agreement to be recorded on the title to the property.
- B. During the exemption period, the owner or a representative shall submit annual documentation of tenant income and rents for the affordable units in the project to the Portland Housing Bureau.

3.103.080 For-Sale Unit Compliance.

- A. Approved applicants must execute a document to be recorded on title of the project requiring Portland Housing Bureau verification of homebuyer affordability and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer.

**TITLE 3
ADMINISTRATION**

- B.** For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications at initial sale will have the tax exemption removed as of the next tax year.
- C.** For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

3.103.090 Extension of the Exemption for Low Income Housing Projects.

(Repealed by Ordinance No. 188163, effective February 1, 2017.)

3.103.100 Termination of the Exemption.

If the Portland Housing Bureau determines that the project fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

3.103.110 Implementation.

Portland Housing Bureau may adopt, amend and repeal the Administrative Rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.

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TITLE 6 - SPECIAL TAXES

CHAPTER 6.04 - TRANSIENT LODGINGS
TAX

(Chapter replaced by Ordinance No. 161506,
effective January 1, 1989.)

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- 6.04.020 Tax Imposed.
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- 6.04.170 Civil Penalties for Violations of this Chapter.

6.04.010 Definitions.

(Amended by Ordinance Nos. 162647, 186985, 187339 and 188170, effective January 20, 2017.) Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. **“Accrual Accounting”** means the Operator enters the Rent due from a Transient on their records when the Rent is earned, whether or not it is paid.
- B. **“Booking Agent”** means any Person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent's hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:

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1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; or
 2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; or
 3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy; or
 4. Any Person who lists commercial Hotel rooms or long-term rentals for transient lodging occupancy; or
 5. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds for the transient lodging occupancy from a Transient.
- C. **“Division”** means the Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- D. **“Director”** means the director of the Revenue Division, or designee.
- E. **“Business License Appeals Board”** means the Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- F. **“Cash Accounting”** means the Operator does not enter the Rent due from a Transient on their records until Rent is paid.
- G. **“Host”** means the owner or person who resides at a Short-Term Rental or has been designated by the owner or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.
- H. **“Hotel”** means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, 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

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dormitory, hostel, fraternity, sorority, public or private club, corporate housing or executive housing space or facility, and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 31-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.

I. “Occupancy” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Room, Rooms or portion thereof in a Hotel as defined above.

J. “Operator” means:

1. Any Person who provides one or more Rooms for Occupancy for periods of 30 days or less to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person the Hotel consents to allow to process reservations and accept payments from the Transient on behalf of the Hotel; or
2. Any Person that facilitates the reservation of an accommodation and collects the payment for the Room reservation from the Transient; or
3. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300; or
4. A Booking Agent as defined in this Chapter.

There may be more than one Operator for a Hotel and each Operator is independently responsible for compliance with this Chapter though the tax will only be collected once. Operators include, but are not limited to, the Hotel owner and/or management, online travel companies, Booking Agents or other online travel facilitators, travel agents or companies, contracted management companies or any other Person that secures the right to occupy a Room on behalf of the Transient and receives payment from the Transient for that right whether or not the Operator is the ultimate recipient of the payment.

K. “Person” means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

L. “Rent” means the full consideration charged to the Transient for the right to occupy a Room in a Hotel, valued in money, goods, gift cards, labor, credits, property or other consideration of value without any deduction. Rent is considered to be the

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total amount represented to the Transient by an Operator 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.

- M. “Rent Package Plan”** means the consideration charged for both food and Rent where a single rate is made for the total of both. The amount applicable to Rent for determination of transient room tax under this Chapter is considered the same charge made for Rent of the identical room when it is not a part of a package plan.
- N. “Room”** means each portion of a Hotel which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations, such as meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk or dormitory style rooms, each bed is counted as a room.
- O. “Short-Term Rental”** means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging Occupancy. Generally, a Short-Term Rental is zoned residential or has a building occupancy that only allows for residential use.
- P. “Tax”** means either the tax payable by the Transient or the aggregate amount of taxes due from an Operator during the period for which the Operator is required to report their collections.
- Q. “Transient”** means any individual who exercises Occupancy or is entitled to Occupancy in a Hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a Transient checks out of the Hotel is not included in determining the 30-day period if the Transient is not charged rent for that day by the Operator. Any such individual so occupying space in a Hotel is deemed to be a Transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of Occupancy, and the tenancy actually extends more than 30 consecutive days.

6.04.020 Tax Imposed.

(Amended by Ordinance No. 188170, effective January 20, 2017.) For the privilege of Occupancy in any Hotel, each Transient shall pay a tax in the amount of 6 percent of the Rent charged by the Operator. The Tax constitutes a debt owed by the Transient to the City, which is extinguished only by payment by the Operator to the City. The Transient shall pay the Tax to the Operator of the Hotel at the time the Rent is paid. The Operator must enter the tax on their records when Rent is collected if the Operator keeps their records on the Cash Accounting basis and when earned if the Operator keeps their records on the

Accrual Accounting basis. If Rent is paid in installments, a proportionate share of the tax must be paid by the Transient to the Operator with each installment. In all cases, the Rent paid or charged for Occupancy may exclude the sale of any goods, services and commodities, other than charges associated with furnishing rooms, including but not limited to cleaning fees, non-refundable deposits, reservation or service fees.

6.04.025 Administrative Authority.

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A. The Revenue Division administers this Chapter. Nothing in this Chapter precludes the disposition of a controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.
- B. The Director may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C. The Director may adopt rules relating to matters within the scope of this Chapter or to obtain compliance with this Chapter.
- D. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director must mail notice of the public hearing to each Operator currently registered with the Division at the last known mailing address provided or post the rule on the City of Portland website. The notice must be mailed not less than 10 nor more than 30 days before the hearing. Such notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule and the location where copies of the full text of the proposed rule may be obtained.
- E. At the public hearing, the Director must accept oral or written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing.

6.04.030 Collection of Tax by Operator.

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A. Operators must collect a Tax from the Transient. The Tax collected or accrued by the Operator constitutes a debt owing by the Operator to the City.
- B. In cases of deferred payment of Rent, the payment of Tax to the Operator may be deferred until the Rent is paid, and the Operator shall not be liable for the Tax until credits are paid or deferred payments is made. Adjustments may be made for uncollectible Rent where appropriate.

6.04.040 Operator's Duties.

(Amended by Ordinance Nos. 186985, 187339 and 188170, effective January 20, 2017.)

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- A. Operators must collect the Tax imposed by this Chapter at the same time as the Rent is collected from every Transient. The amount of Tax must be separately stated upon the Operator's records, and any receipt rendered by the Operator. If a single amount is stated on the Operator's records or receipts without a breakout between Rent and Tax, the Division will deem the entire amount is Rent and Tax will be calculated on the total amount. No imputation of Tax is permitted. No Operator may advertise that the Tax or any part of the Tax will be assumed or absorbed by the Operator, or that it will not be added to the Rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.
- B. Upon request of the Division for any regulatory or tax administration purpose, Operators must provide all physical addresses of transient lodging occupancy locations within Portland city limits and the related contact information, including the name and mailing address of the general manager, agent, owner, Host or other responsible Person for the location. Any location and related contact information provided under this Subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

6.04.050 Exemptions.

(Amended by Ordinance Nos. 162647 and 188170; effective January 20, 2017.) No tax imposed under this Chapter shall be imposed upon:

- A. Any occupant for more than 30 successive calendar days (a Person who pays for lodging on a calendar month basis, irrespective of the number of days in such a month, shall not be deemed a Transient);
- B. Any occupant in a hospital room, medical or mental health facility, convalescent home, skilled nursing facility, assisted living facility, foster home, rehabilitation center or a government owned and operated public institution.
- C. Any Person housed through an emergency shelter or disaster program where the Rent is paid with government assistance funds;
- D. Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization. An exemption may also be granted for direct bills to a Federal Government department, agency or instrumentality. An exemption may not be granted for Rents paid by contractors of the Federal Government, even if the Occupancy was for a Federal Government employee on official business, and notwithstanding the fact that such Rents may be reimbursed by the Federal Government or paid under the contract with the Federal Government.

6.04.060 Registration of Operator; Form and Contents; Certification of Authority.

(Amended by Ordinance Nos. 186736, 187339 and 188170, effective January 20, 2017.)

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- A.** Person engaging or about to engage in business as an Operator in this City must register with the Division on a form provided by the Division. Operators starting business must register within 15 calendar days after commencing business. The failure to register with the Division does not relieve any Person from the obligation of payment or collection of Tax. Registration must state the name under which an Operator transacts or intends to transact business, any affiliated companies or brands that are associated with the registration, the location of the place of business and such other information necessary to facilitate the collection of the Tax as the Division may require. The Operator must sign the registration form.
- B.** Within 10 days after registration, the Division will issue a Certificate of Authority and establish an account to collect the tax from the Transient. Certificates of Authority are non-assignable and non-transferable and will be returned to the Division upon the cessation of business or business sale or transfer at the location listed on the certificate, if applicable. Certificates of Authority must be prominently displayed so as to be seen by all occupants and persons seeking occupancy. If the Rent transaction is facilitated online, the Certificate of Authority must be able to be viewed by the Transient by clicking on link to the Certificate of Authority at a reasonable place during the payment transaction.
- C.** The Certificate of Authority will include at least the following:
- 1.** The name of the Operator;
 - 2.** The date the certificate was issued;
 - 3.** “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any Person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Portland. This certificate does not constitute a permit.”
- D.** Hosts of Type A and Type B Accessory Short-Term Rentals must comply with the requirements of Chapter 33.207. In addition, all Operators of Type A and Type B accessory Short-Term Rentals as described in Chapter 33.207 must prominently display the Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No Operator will advertise or otherwise represent that an accessory Short-Term Rental is available for Occupancy unless all applicable legal requirements allowing the Occupancy of a Short-Term Rental has been met and the Operator has registered with the Division as required above. Additionally, this Permit Number, Conditional Use case file

number or other number issued directly by the Division must be prominently displayed in the rental unit so as to be seen by all short-term occupants.

6.04.070 Due Date; Returns and Payments.

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** The tax imposed by this Chapter must be paid by the Transient to the Operator at the time that Rent is paid. All amounts of such taxes collected by any Operator are due and payable to the Division on or before the last day of the following month for the preceding 3 months. If the due date falls on a 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 authority to classify and/or district Operators for determination of applicable tax periods, and will notify each Operator of the due dates for returns.
- B.** On or before the last day of the month following each quarter of collection, or month of collection if an Operator is required or elects to file monthly returns, a return for the preceding period's tax collections must be filed with the Division. The return must be filed in such form as the Division may prescribe for payment of the tax.
- C.** Returns must show the amount of tax collected or otherwise due for the related period. The Division may require returns to include additional information to explain the tax calculation.
- D.** The Person required to file the return shall deliver the return, together with the remittance of the amount of the tax 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 date of delivery for determining delinquencies.
- E.** For good cause, the Division may extend for 1 month the time for making any return or payment of tax. No further extension will be granted, except by the Director. Any Operator to whom an extension is granted will pay interest at the rate of 1.25 percent per month on the amount of tax due without proration for a portion of a month or reduction for any prepayments or credits available. If a return is not filed, and the tax and interest due is not paid by the end of the extension period, then the interest will be added to the tax due for computation of penalties and additional interest described elsewhere in this Chapter.
- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods. If an Operator is required to report on a more frequent basis, the Division will provide a schedule showing the tax periods, due dates and delinquent dates.

6.04.080 Penalties and Interest.

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Original delinquency. Any Operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter on or before the due date will pay a penalty of 10 percent of the tax due in addition to the tax. There is no grace period between the due date and the assessment of a penalty and interest; the day following the due date is considered to be the delinquent date.
- B.** Continued delinquency. Any Operator who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the tax due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C.** Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the tax will be added in addition to the penalties stated in paragraphs A. and B. of this Section and interest stated in paragraph 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 calculations.
- D.** Interest. In addition to the penalties imposed, any Operator who fails to file or pay any tax imposed by this Chapter 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 tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax 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 Operator who fails to pay the tax within the time stated must pay the tax, penalties and interest assessed; however, the Operator may petition the Director for waiver and refund or credit of all or part of the penalty assessed and the Director may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

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- A.** Deficiency determinations. If the Division determines that a return is incorrect, that required reports or returns have not been filed, or that an Operator has otherwise failed to comply with the terms of the Code, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within ten days. The Division may assess penalties and interest as set forth in Section 6.04.080.
1. In making a deficiency determination, the Division may offset overpayments, if any, which may have been previously made against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
 2. The Division must give to the Operator or Transient (in the case of a refund request) a written notice of its deficiency determination. The notice may be served personally or by mail. If by mail, the notice will be addressed to the Operator at the address as it appears on the records of the Division or as the Division can best determine if the Operator has not provided that information to the Division. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit with the United States Post Office.
 3. Any deficiency is due and payable within 10 days. The Operator or Transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the Division from extending the time for petition beyond 10 days at its sole discretion.
 4. Every deficiency determination must be made and notice mailed within 5 years after a return was originally filed, subsequently amended or the tax was paid, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced, at any time and is not subject to the 5 year limitation above.
- B.** Operator delay. If the Division believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any deficiency determination will be jeopardized by delay, the Division may make a deficiency determination of the tax or amount of tax required to be collected, noting the fact upon the deficiency determination. The amount so determined is immediately due and payable, and the Operator will immediately pay such determination to the Division after service of notice thereof; provided,

however, the Operator may petition, after payment has been made, for a redetermination of the Division's assessment, if the petition is filed within 10 days from the date of the written notice from the Division.

6.04.100 Redeterminations.

(Amended by Ordinance Nos. 184772, 187339 and 188170, effective January 20, 2017.)

- A. Any Person against whom a deficiency determination is made under Section 6.04.090 or civil penalties assessed under Section 6.04.170 may petition for a redetermination within the time required in Section 6.04.090. The deficiency determination becomes final at the expiration of the allowable time.
- B. If a petition for redetermination is filed within the time provided in Subsection 6.04.090 A.3., the Director will reconsider the deficiency determination or civil penalties, and, if requested in the petition, will grant an oral hearing and give 10 days notice of the time and place of the hearing. The Director may continue the hearing from time to time as may be necessary.
- C. The Director may adjust the amount of the deficiency determination as a result of the hearing and, if an increase is determined, such increase will be payable immediately after the hearing.
- D. The Director's order or decision becomes final 10 days after service upon the petitioner unless an appeal is filed with the Business License Appeals Board or Hearings Officer, if applicable, within 10 days after service.
- E. No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Operator has first complied with the payment provisions and has paid in full the amount determined to be due in the deficiency determination or civil penalty that is being appealed.

6.04.110 Security for Collection of Tax.

(Amended by Ordinance Nos. 162647, 187339 and 188170, effective January 20, 2017.)

The Division, whenever deemed necessary to ensure compliance with this Chapter, may require any Operator to deposit security in the form of cash, bond or other security as the Division may determine. The amount of the security will be determined by the Division but will not be greater than twice the Operator's largest quarterly liability, determined in such manner as the Division deems proper. No interest will accrue on any security required by the Division.

6.04.120 Credits or Refunds.

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A. Credits by City to Operator. Whenever the amount of any tax, penalty, or interest has been paid in error to the Division under this Chapter, it may be credited to the

Operator's account, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Division within 3 years from the date of payment. If the claim is approved by the Division, the excess amount collected or paid may be credited against any current or future amounts due and payable from the Operator. If there is no future liability, the Division may issue a refund.

- B.** Refunds by City to Transient. Whenever the tax required by this Chapter has been collected by the Operator, and paid by the Operator to the Division, and it is later determined that the tax was erroneously collected by the Operator, it may be refunded by the Division to the Transient or the party who paid the tax if different from Transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Division within 3 years from the date of payment. Prior to any refund, the Division will audit the Operator's records to determine that the tax was collected and paid to the City.
- C.** Refunds by Operator to Transient. Whenever the tax required by this Chapter has been collected by the Operator and it is later determined that the tax was collected in error, the Operator will refund to the Transient the tax previously collected. The Operator will account for such collection and refund to the Division. If the Operator has remitted the tax prior to refund to the Transient, the Operator may request a credit for the refunded tax when the next report is filed with the City.

6.04.130 Administration and Recordkeeping.

(Amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Records required from Operator. Operators must keep appropriate records, including but not limited to registration forms or logs, accounting and bank records, supporting documentation for all deductions taken and any other documentation necessary to support the tax report filed or required to be filed. All records must be retained by the operator for a period of 5 years and 6 months after the filing of the tax return, amended return or payment of the tax, whichever is later.
- B.** Examination of records; investigations. The Division, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to tax returns filed by any Operator, after notification to the Operator liable for collecting and remitting the tax, and may investigate the business of the Operator in order to verify the accuracy of any return made, or if no return is made or, to determine the amount required to be paid.
- C.** Should the City institute legal proceedings in any state or federal court to collect the taxes, penalties and interest assessed in accordance with this Chapter, the City shall be entitled to its reasonable costs and attorneys' fees.

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- D.** At any time within 5 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 5 years after any determination becomes final, in the case where no tax returns have been filed, the Division may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount tax due, together with all penalties and interest amounts assessed under this Code.
- E.** Confidential financial information. Except as otherwise required by law, it is unlawful for the Division, or any elected official, employee or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Division under the terms of Chapter 6.04. Nothing in this subsection prohibits:
- 1.** The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting taxes imposed under the terms of this Chapter, or collecting City permit fees or business license taxes; or
 - 2.** The disclosure to the Operator or an authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request and approval of the request by the Director; or
 - 3.** The disclosure of the names and addresses of any persons to whom Certificates of Authority have been issued; or
 - 4.** The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular Operator's return; or
 - 5.** The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Division deems disclosure or access necessary for the performance of the duties of advising or representing the Division.
 - 6.** The disclosure of financial information or unpaid tax balances, including penalty and interest assessments, to an outside collection agency on contract with the City to provide collection services.

6.04.140 Business License Appeals Board; Hearings Officer; Appeal; Rules.

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A.** Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the Division or Director made

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upon petitions for redetermination. The Board may affirm, modify, or reverse such orders or decisions or dismiss the appeals and prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the Division or Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It will give notice of its determinations in the manner prescribed for service of a notice of the Division or Director's decision and will file a copy of each such determination with the Division. Such determination will become final after 10 days and any increase to the determination becomes due and payable once final, subject to interest and penalties, and enforceable by the Division as an order or decision of the Division or Director.

- B.** For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C.** An appeal involving an amount in controversy greater than \$50,000 will be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board. The Hearings Officer will be appointed by the City Attorney, will be a member of the Oregon State Bar and will not be a City employee.
- D.** In appeal hearings held before a Hearings Officer, the appellant and the City's representative will each have the right to appear in person and be represented by legal counsel, to receive notice, to respond to and present evidence, to call and cross-examine witnesses under oath and to present argument on all issues involved. Subject to the provisions herein, the City Attorney may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.
- E.** The record in a proceeding before the Hearings Officer will include:
 - 1.** All pleadings, motions, and intermediate rulings;
 - 2.** Evidence received or considered;
 - 3.** Stipulations;
 - 4.** A statement of matters officially noticed;
 - 5.** Questions and offers of proof, objections, and rulings thereon;
 - 6.** Proposed findings and exceptions; and
 - 7.** Any proposed, intermediate, or final order prepared by the Hearings Officer.

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- F.** The Hearings Officer has the power to compel attendance of witnesses by deposition or at hearing and the production of documents by subpoena to any party upon showing of general relevance and subpoena in accordance with civil law.
- G.** The formal rules of evidence do not apply and any relevant evidence that is the sort of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of serious business affairs is admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The Hearings Officer will give effect to the rules of privilege recognized by law.
- H.** The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of City employees.
- I.** A verbatim, written, mechanical, or electronic record will be made on all motions, rulings, and testimony if requested by any party. The record will be transcribed for the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript will be allowed as a part of the City's costs in such action.
- J.** The Hearings Officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, penalty or interest due in accordance with the Transient Lodgings Tax Law. The Hearings Office does not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest assessment found to be duly imposed.
- K.** The decision of the Hearings Officer will be issued in writing in a final order. The final order becomes final on the date specified in the order, which date will be within 30 days after the conclusion of the hearing. The decision is the final administrative remedy of the appellant. Any amounts due are payable to the City of Portland within 10 days of the order becoming final. The Hearings Officer will notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

6.04.150 Appeal to Business License Appeals Board, Hearings Officer.

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.) Any Operator or Transient aggrieved by a decision of the Director made pursuant to Section 6.04.100 may appeal to the Business License Appeals Board or Hearings Officer as allowed in Section 6.04.140 by filing a notice of appeal with the Director within 10 days of the service of the notice of a Director's decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals.

6.04.155 Appeal of Penalty or Interest Assessments.

(Added by Ordinance No. 188170, effective January 20, 2017.) Appeals of penalty and/or interest assessments are not subject to the appeals process or timeline outlined in Section 6.04.140 or 6.04.150 above. The Operator must follow the “Redetermination” procedures under Section 6.04.100. The decision of the Director regarding penalty and interest assessments is final.

6.04.160 Appeals to City Council.

(Repealed by Ordinance No. 184772, effective August 26, 2011.)

6.04.165 Presumptive Tax for Failure to Register or File Returns.

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A. The Director may impose a presumptive tax upon any Person failing or refusing to register as an Operator or file tax returns as required under this Chapter.
- B. In calculating the presumptive tax amount when imposed under this Section, the Division will determine:
 - 1. The number of rooms that the Operator controlled for each day that it was not registered; and
 - 2. The room rental rate, based upon the best available information, including comparable operations by a similarly situated Operator; or
 - 3. Use any other reasonable method available to the Division to impose a presumptive tax, including but not limited to tax returns filed by similarly situated Operators.
- C. Any presumptive tax issued under this section will include penalty and interest assessments based on when the registration or tax returns were originally due, following the rules established within this Chapter.
- D. Presumptive taxes are not intended to approximate actual taxes that may be due and nothing prohibits the Division from assessing excessive tax amounts due based on reasonable assumptions and calculation methods.

6.04.170 Civil Penalties for Violations of this Chapter.

(Amended by Ordinance Nos. 186985, 187339 and 188170, effective January 20, 2017.) It is unlawful for any Operator or other Person so required to fail or refuse to register or to fail or refuse to file any return required, or to fail or refuse to file a supplemental return or any other data required by the Division, or to render a false or fraudulent return, or to fail to perform any of the duties required in Chapter 6.04. No Person required to make, render, sign, or verify any report will make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter. In addition to any

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presumptive taxes assessed under Section 6.04.165, the Director may impose a civil penalty of up to \$500 for each violation of this Chapter. Violations may be assessed as frequently as necessary to achieve compliance with this Chapter, up to and including daily. A violation includes, but is not limited to:

- A.** Failure to file any required Transient Lodgings Tax payment and/or report, including any penalties and interest, within 60 days of the due date;
- B.** Filing a false or fraudulent report;
- C.** Failure to register a Hotel or Short-Term Rental, or failure to register as an Operator with the Division as described in Section 6.04.060;
- D.** Failure to maintain a separate account for the transient lodgings tax collected when required by the Division;
- E.** Failure to provide any data or other information requested by the Division, including but not limited to, the physical address of a transient lodging occupancy location within Portland and the related contact information;
- F.** Failure by a Host or failure by any Operator to prominently display the Type A Permit Number, Type B Conditional Use case file number or Revenue Division issued advertising number in advertising or other listing services, or failure by the Host to post the number in the Short-Term Rental unit; and
- G.** Failure by an Operator to prominently display the Accessory Short-Term Rental permit number, case file number or other number issued by the Division in all advertisements and/or in the Short-Term Rental.
- H.** Failure by an Operator to maintain records required in Subsection 6.04.130 A.

**CHAPTER 6.05 - TOURISM IMPROVEMENT
DISTRICT**

(Chapter added by Ordinance No. 185443, effective
July 20, 2012.)

Sections:

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Required.
- 6.05.040 License Transfer.
- 6.05.050 License Term.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
- 6.05.080 Disposition of License Fees.
- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 Late Penalties and Interest.
- 6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.
- 6.05.110 Civil Penalties.
- 6.05.120 Revenues and Programs.
- 6.05.130 Portland Tourism Improvement District Periodic Sunset Review.
- 6.05.140 Severability.

6.05.010 Portland Tourism Improvement District.

The Portland Tourism Improvement District includes all hotels, as defined in Section 6.05.020, with 50 or more rooms within the Portland City limits.

6.05.020 Definitions.

(Amended by Ordinance Nos. 187339, 187828 and 188171, effective January 20, 2017.)

- A. “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- B. “Division Director” and “Director” mean the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or his or her designee;
- C. “District” means the Portland Tourism Improvement District as described in this Chapter;
- D. “Notice” means a written document mailed by the Division by first class mail to the last known address of a hotel as provided to the Division in the latest application or return on file at the Division; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the

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latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;

- E.** “Hotel” means any structure, or any portion of any structure which is used, occupied, 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, 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.
- F.** “Engaged in hotel management activities” means:
1. Being financially responsible for a water service provided to a hotel;
 2. Being financially responsible for operation of a hotel business;
 3. Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a. Being responsible for waste disposal service provided to a hotel;
 - b. Being responsible for providing fire insurance for a hotel;
 - c. Being responsible for repair and maintenance of a hotel;
 - d. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a hotel; and
 - e. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a hotel.
- G.** "City Council" means the City Council of the City of Portland, Oregon.
- H.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel for the occupancy of guest rooms only, valued in money, goods, gift cards, labor, credits, property or other consideration of valued, 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.

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- I. “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- J. “Person” means any individual, 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 Hotel management activities within the District.
- K. “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- L. “Room” means each portion of a hotel which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations such as, meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk and dormitory style rooms, each bed is counted as a room under this definition. This definition is included for purposes of determining if a hotel is included in the District.

6.05.030 License Required.

(Amended by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities of any hotel with 50 or more rooms within the District shall obtain a license for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. Only one person need obtain a license for each hotel in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of hotel property management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the Division shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.05.040 License Transfer.

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A. Except as provided in this Section, no license shall be transferred or assigned from one person to another.
- B. The Division shall allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted hotel management

activities requiring a license under this Chapter. Any transfer shall be reported to the Division in writing or on a form provided by the Division and shall be effective when the Division approves the transfer as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Division's approval; and the transferee shall be responsible for any license fee installments which become payable after the Division's approval.

6.05.050 License Term.

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A. Each license issued under this Chapter shall be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter shall expire on the first September 30 following the date on which the license was issued.
- B. Any person under license who wishes to continue engaging in hotel management after the expiration of a license term must file a license renewal at least 30 days before the license expires or such other time as is established by Division rule.

6.05.060 Portland Tourism Improvement District License Rate.

The license assessment established by this Chapter for hotel management activities in the Portland Tourism Improvement District for a license year shall be calculated as follows:

- A. Gross rent charged by the hotel;
- B. Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C. Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D. Minus rent received from stays by any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E. Multiplied by .02 (two percent).

6.05.070 Due Date; Returns and Payments.

(Amended by Ordinance Nos. 187828 and 188171, effective January 20, 2017.)

- A. The assessment imposed by this Chapter is due and payable on or before the last day of the following month for the preceding three months. If the due date falls on a 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

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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 district the Hotels for determination of applicable collection periods.

- B.** On or before the last day of the month following each quarter of collection, or month of collection if a Hotel is required or elects to file monthly returns, a return for the preceding period's assessment on a form prescribed by the Division must be filed. The return must be filed in such form as the Division may prescribe for payment of the assessment.
- C.** Returns must show the amount of assessment owed for the period. The Division may require returns to include additional information to explain the assessment calculation.
- D.** The 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 one month. No further extension will be granted, except by the Director. Any person granted an extension 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 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 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.

6.05.080 Disposition of License Fees.

(Amended by Ordinance No. 187828, effective July 15, 2016.) The Division shall forward revenues collected, minus any amount withheld to cover administrative costs incurred by the Division to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.

B. Adoption of Rules.

1. Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Division's office. Copies of all current rules shall be made available to the public upon request.
3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

6.05.100 Late Penalties and Interest.

(Amended by Ordinance Nos. 187828 and 188171, effective January 20, 2017.)

- A. Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and who fails to remit any assessment imposed by this Chapter 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 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 who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency 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.
- C. Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of

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25 percent of the assessment shall be added 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 penalties imposed above, any Licensee that fails to file or pay any assessment imposed by this Chapter 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. Interest shall be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the assessment 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 pay the assessment within the time stated must pay the tax, penalties and interest assessed; however, the Hotel may petition the Division for waiver and refund or credit of all or part of the penalty assessed and the Division may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.

(Added by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal to the Business License Appeals Board or Hearings Officer as allowed in City Code Section 6.04.140 by filing a notice of appeal with the Division Director within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals. The procedures and rules of City Code Section 6.04.140 will apply to any such appeal.

6.05.110 Civil Penalties.

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.05.105.

6.05.120 Revenues and Programs.

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A. Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit hotels paying the assessment. Programs may include:
 - 1. Internet, radio, television, and print advertising;
 - 2. Branding efforts;
 - 3. Sales promotions;
 - 4. Sponsorship of special events which attract out-of-town visitors; and
 - 5. Other programs designed to increase overnight stays at hotels.

- B. Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:
 - 1. Prepare and submit to the City Council, and make available to lodging businesses, an annual report on expenditures and activities;
 - 2. Manage funds in accordance with the provisions of this Chapter;
 - 3. Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
 - 4. Enter into an Agreement with the City of Portland relative to management of district funds.

- C. The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. Portland Tourism Improvement District funds shall supplement the existing funding of one percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City of Portland.

6.05.130 Portland Tourism Improvement District Periodic Sunset Review.

(Amended by Ordinance No. 187828, effective July 15, 2016.) During 2021 and each 10th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2021 and each 10th year thereafter, the Division shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

6.05.140 Severability.

If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.

**CHAPTER 6.06 - DISTRICT PROPERTY
MANAGEMENT LICENSE**

(Chapter replaced by Ordinance No. 175729,
effective July 27, 2001.)

Sections:

- 6.06.010 License Required.
- 6.06.020 Definitions.
- 6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.
- 6.06.040 License.
- 6.06.050 Exemptions from License Requirements.
- 6.06.060 License Transfer.
- 6.06.080 License Term.
- 6.06.090 Preparation and Notice of Fee.
- 6.06.095 Preparation and Notice of Fee Adjustment.
- 6.06.100 Appeals.
- 6.06.110 Registration for License.
- 6.06.120 Interest on Delayed Application.
- 6.06.140 Fee Payment in Two Installments.
- 6.06.145 Fee Payment in One Installment.
- 6.06.150 Penalty and Interest on Failure to Pay Fee.
- 6.06.160 Civil Penalties.
- 6.06.180 Severability.
- 6.06.190 Clean & Safe District.
- 6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.
- 6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.
- 6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.
- 6.06.212 Clean & Safe District Exempt Property.
- 6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.
- 6.06.214 Clean & Safe District Square Footage of Improvements.
- 6.06.215 Pledging of Clean & Safe District License Fee Revenues.
- 6.06.216 Lighting and District Amenities Revenues and Program.
- 6.06.220 Clean & Safe District Periodic Sunset Review.
- 6.06.230 Clean & Safe District Early Termination.
- 6.06.240 Request Annual CPI Increase to be Different than Calculated.
- 6.06.250 Lloyd District.
- 6.06.260 Lloyd District Fee Rates for Engaging in Property Management Activities.
- 6.06.270 Revisions to License Fee Year Schedule.
- 6.06.280 Lloyd District Periodic Sunset Review.

- 6.06.290 Lloyd District Early Termination.
- 6.06.300 Request That Annual Lloyd District Escalator Be Lowered.

6.06.010 License Required.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Any person engaged in property management activities within a District will pay a license fee for such activities covering each license year, or if registration is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, will not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of property management in a District, and the revenues collected will be used to provide, through a qualified contractor, cleaning, security, crime prevention, business development, transportation, public policy, housing, and marketing and communications services, or any such services, that benefit properties in the District. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City will not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

6.06.020 Definitions.

(Amended by Ordinance Nos. 182925, 185495 and 187339, effective October 16, 2015.) Unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

- A. “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B. “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. “Business property” means real property that is not residential property and is not exempt property. If real property in the District in part is residential or exempt property and in part is neither residential nor exempt property, then “business property” is that portion of the real property that is neither residential nor exempt property, including a proportionate share of the land. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property;

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- D.** “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, not seasonally adjusted, as published semi-annually by the United States Bureau of Labor Statistics;
- E.** “CPI-W adjustment factor” for a license year means the fraction in which the numerator is the CPI-W HALF1 immediately preceding the commencement of that license fee year and the denominator is the CPI-W for HALF1 for 2011;
- F.** “District” means an enhanced services district as described in this Chapter;
- G.** “Elevator capacity” means the pounds of elevator capacity for elevators type PXH, PXVE, and PXE as recorded in the records of the Building Codes Division of the Oregon Department of Consumer and Business Services;
- H.** “Engaged in property management activities” means:
- 1.** Being financially responsible for a water service provided to a building or, if there is no building on property, to land within the District, in the event there is a single water service serving the property;
 - 2.** Being financially responsible for operation of a business or a residential use that exclusively occupies a building or, if there is no building on property, land within the District, in the event there is no water service serving the property;
 - 3.** Being financially primarily responsible for the indicia of management of property within the District, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for a water service provided to common areas of a building;
 - b.** Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;
 - c.** Being responsible for providing fire insurance for a building;
 - d.** Being responsible for repair and maintenance of a building;
 - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and

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- f. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
 - 4. Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out will not constitute being “engaged in property management activities.”
- I. “Exempt property” means:
 - 1. Mass shelters, as defined in Chapter 33.910 of this Code;
 - 2. Property owned or being purchased by religious organizations including:
 - a. Houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, “exempt property” does not include any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this subsection; and
 - b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the license year; and
 - 3. Any other property in a particular District established by this Chapter that this Chapter identifies as exempt property for that District.
- J. “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;
- K. “Manager” means the Director of the Revenue Division or his or her designee;
- L. “Notice” means a written document mailed by the Division by first class mail to the last known address of a licensee as provided to the Division in the latest application on file at the Division; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the latest general business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;

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- M.** “Person” means a natural person, sole proprietorship, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity capable of engaging in property management activities within the District;
- N.** “Qualified contractor” means a non-profit corporation or other non-profit entity established by property owners or licensees in the District for the purpose of providing services that benefit the District;
- O.** “Residential Property” means real property that is exclusively in residential use and is not exempt property. If part of real property is in residential use and part is not in residential use or is exempt property, then “residential property” is that portion of the real property that is exclusively in residential use and is not exempt property, and a proportionate share of land. Property is considered to be in residential use if the use is within a “Residential Use Category” as defined by Chapter 33.920 of this Code. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property; and
- P.** “Square feet” and “square footage,” except as otherwise expressly stated in this Chapter, means square footage as recorded in the records of the Multnomah County Office of Assessment and Taxation or, if not so recorded, as measured using the same method as used by the Multnomah County Office of Assessment and Taxation.

6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
 - 1.** Prior to the adoption of any rule by the Manager pursuant to this Section, a public hearing will be conducted. The Manager will give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice will include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
 - 2.** During the public hearing, the Manager will hear statements or receive written comment concerning the proposed rules. The Manager will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review may be conducted, but no additional public notice will be required if an announcement is made at the hearing of

a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules will be effective upon adoption by the Manager. All rules adopted by the Manager will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.

3. Notwithstanding Subsections 6.06.030 B.1.-2., the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

6.06.040 License.

(Amended by Ordinance No. 185495, effective July 11, 2012.) No person will engage in property management activity within the District unless such person first will have paid a license fee installment as described in Subsection 6.06.140.

6.06.050 Exemptions from License Requirements.

Persons who the city is prohibited from licensing or taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City are exempt from the license requirements imposed by this Chapter, to the extent of any such prohibition.

6.06.060 License Transfer.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. Except as provided in this Section, no license will be transferable from one person to another.
- B. The Bureau may allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted property management activities requiring a license under this Chapter. Any transfer will be reported to the Bureau in writing or on a form provided by the Bureau and will be effective when the Bureau approves the transfer as complete. The licensee will be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee will be responsible for any license fee installments which become payable after the Bureau's approval.

6.06.070 Contents of License.

(Repealed by Ordinance No. 185495, effective July 11, 2012.)

6.06.080 License Term.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A. Each license issued under this Chapter will be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter will expire on the day prior to the beginning of the new license year. In no case will a license be valid in excess of 12 months.

6.06.090 Preparation and Notice of Fee.

(Amended by Ordinance No. 185495, effective July 11, 2012.) On or before August 1 of each year, the Bureau will make a preliminary determination of each person engaged in property management activity within the District and subject to the license fee requirement and of the amount of license fee payable by the person for the next license year. On or before August 1, the Bureau will mail to each person preliminarily determined to be engaged in property management activity within the District and subject to the license fee requirement a notice which contains the following information:

- A. That the Bureau has determined the person is engaged in property management activity within the District that is subject to the license fee requirement;
- B. The amount of the license fee the Bureau has determined to be payable by the person for the next license year, including the data and formula used in determining the amount;
- C. The activities which constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.1.-3.;
- D. The activities which do not constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.4.;
- E. The exemption provisions of Section 6.06.050 and the definition of exempt property as set out in Section 6.06.020 I. and any other provision of this Chapter applicable to the District;
- F. That any appeal from the determinations of the Bureau as to the person's engagement in property management activity within the District, as to the person's being subject to the license fee requirement, or as to the amount of the license fee payable by the person for the next license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed. Appeal information from Section 6.06.100 will be included with the notice.

6.06.095 Preparation and Notice of Fee Adjustment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In cases in which the sections of this Chapter establishing a license fee formula for the District provide for a license fee adjustment, the Bureau, following City issuance of authorization to occupy improvements or any portion of improvements, will make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau will mail to the licensee a notice which contains the following information:

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- A.** That the Bureau has determined that the licensee is subject to a fee adjustment;
- B.** The amount of the adjusted license fee the Bureau has determined to be payable by the licensee for the balance of the license year, including the data and formula used in determining the adjusted amount;
- C.** That any appeal from the determinations of the Bureau as to the person's being subject to a license fee adjustment, or as to the adjusted amount payable for the balance of the license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed.

Failure to receive notice as provided in this Section will not relieve a person from the obligation to pay an adjusted license fee payable under this Chapter.

6.06.100 Appeals.

(Amended by Ordinance Nos. 176955 and 185495, effective July 11, 2012.)

- A.** Persons to whom the Bureau mails a notice under Section 6.06.090 will be presumed to be engaged in property management activity within the district, to be subject to the license fee requirement, and to be liable for the amount indicated in the notice as the license fee payable by the person for the next license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- B.** Persons to whom the Bureau mails a notice under Section 6.06.095 will be presumed to be subject to a license fee adjustment, and to be liable for the adjusted amount indicated in the notice as payable for the balance of the license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- C.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.090 on the following grounds:
 - 1.** The person is not engaged in property management activity within the District as defined in Subsection 6.06.020 H.1.-4.;
 - 2.** The person is not subject to the license fee requirement because the person is exempt under Section 6.06.050;
 - 3.** The amount of license fee determined by the Bureau to be payable by the person for the next license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.

- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:
1. The licensee is not subject to a fee adjustment;
 2. The amount of the adjusted license fee determined by the Bureau to be payable by the person for the balance of the license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- E.** The Bureau, in its discretion, may grant an appeal without audit or may audit an appeal to determine whether the appeal should be granted. The audit may include review of such evidence as the Bureau deems appropriate. If the person appeals on the ground that the data used in determining the license fee payable are incorrect, the Bureau will not be bound by the data contained in the record sources identified in the sections of this Chapter establishing the license fee formula for the District and may consider other evidence as to data, except that the Bureau will be bound by the assessed value data as recorded in the Multnomah County assessment roll, by the square footage data as recorded in the records in the Multnomah County Office of Assessment and Taxation, by the City Bureau of Development Services written documentation of authorization to occupy improvements or portions of improvements, by the City Bureau of Development Services building permit application records of the cost of physical changes, and by the City Bureau of Development Services building permit application records of the additional square feet of improvements, when those record sources are designated for use by a section of this Chapter establishing the license fee formula for the District. In the event the Bureau determines that an appeal should or should not be granted, in whole or in part, then the Bureau will give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination is final.

6.06.110 Registration for License.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** All persons required to obtain a license under this Chapter may register with the Bureau either in writing or on specific forms if provided by the Bureau. Registrations will be filed, together with the specified license fee installment if known or due at the time of registration:
1. Before the property manager engages in property management activities in the District; or
 2. Prior to commencement of the new license year.

- B.** The Bureau may, for good cause, allow further time for filing registrations, except that no extension may be granted for more than 30 days.
- C.** The registration may contain a written declaration, verified by the property manager, that the statements made therein are true.
- D.** The Bureau will prepare information containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, file a registration or to receive notice as provided in Section 6.06.090, will not relieve a person from the obligation to pay a license fee and register for a license under this Chapter.

6.06.120 Interest on Delayed Application.

(Amended by Ordinance No. 185495, effective July 11, 2012.) When the time for filing a license registration is extended at the request of the applicant, interest at the rate specified in Subsection 6.06.150 B. will be added and paid on the license fee installment or portion thereof not paid within the time originally allowed.

6.06.140 Fee Payment in Two Installments.

(Amended by Ordinance No. 185495, effective July 11, 2012.) Except as otherwise provided by Section 6.06.145, District license fees will be payable as follows:

- A.** Except as provided in Subsection F. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in two equal installments, with the first installment due on October 1 of the license year and the second installment due on April 1 of the license year.
- B.** On or before February 15 of each license year, the Bureau will mail notice to each licensee stating the amount of the second installment payable on April 1 of the license year.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060. If the licensee has not engaged in property management activities within the District until after the beginning of the license year and a transfer has been approved, then the fee payment required will be the next installment due, provided that the property management activities within the District began no later than the billing notice of the next installment.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee shall be payable in relation to any real property which, for that license year, has been paid by another licensee.

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- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
- 1.** The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 2.** The amount of any adjustment increase allocable to the portion of the license year between April 1 and September 30 will be due on April 1 of the license year or 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, whichever is later, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 3.** The amount of any adjustment decrease allocable to the portion of the license year between October 1 and March 31, provided that the amount previously determined to be due as of that October 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.; and
 - 4.** The amount of any adjustment decrease allocable to the portion of the license year between April 1 and September 30, provided that the amount previously determined to be due as of that April 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.145 Fee Payment in One Installment.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If a qualified contractor for a District has filed a written request approved by resolution of the City Council that the District license fee be payable in one installment, District license fees for future license fee years will be payable as follows, until such time as the City Council by resolution determines that the District license fee will be payable in two installments in accord with Section 6.06.140:

- A.** Except as provided in Subsection E. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in one installment due on October 1 of the license year.

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- B.** Each registration for a license, will be accompanied by payment of the license fee for the license year if known.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee will be payable in relation to any real property which, for that license year, has been included in computing the license fee payable by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
 - 1.** The amount of any adjustment increase for a license year will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
 - 2.** The amount of any adjustment decrease for a license year, provided that the amount previously determined to be due has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

6.06.150 Penalty and Interest on Failure to Pay Fee.
(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** If a person:
 - 1.** Fails to file a correct registration at the time required by or under this Chapter; or
 - 2.** Fails to pay a fee installment at the time it becomes due, unless it is shown that the failure is due to reasonable cause and not due to neglect, then there will be added to the amount of a fee installment a penalty of:
 - a.** 5 percent of the amount of the unpaid fee installment, but not less than \$20, if the failure is for not more than 1 month; and
 - b.** Additional penalties of 5 percent of the unpaid fee installment for each additional month or fraction thereof during which the failure continues, up to a maximum of four (4) additional months.

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- B.** Interest will be collected on any unpaid fee installment at the rate of 10 percent simple interest per annum, computed on the balance still due at the end of each month following the date the fee installment became due. For purposes of this subsection, “unpaid fee installment” will not include penalties or interest.
- C.** If a person fails to file a registration on the prescribed date, as determined with regard to any extension for filing, the Bureau may determine the fee and fee installment payable. If the Bureau determines the fee and fee installment payable, the Bureau will determine appropriate penalties and interest and will send notice to the person of the determination.
- D.** The Bureau may apply payments to penalty and interest assessments before applying payments to fee installments due.

6.06.160 Civil Penalties.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The Manager may impose a civil penalty of up to \$500 for each of the following violations of this Chapter:
 - 1.** Failure to file any registration within 90 days of the Bureau’s original written notice to file;
 - 2.** Failure to pay any fee installment within 90 days of the Bureau’s original written notice for payment.
- B.** The Manager may only impose a civil penalty under this section if the Bureau gives notice of the potential for assessment of civil penalties for failure to comply in the original written preliminary determination notice issued under Sections 6.06.090 and 6.06.095.
- C.** The determination of a violation and imposition of a civil penalty under this Section will be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.06.180 Severability.

(Amended by Ordinance No. 185495, effective July 11, 2012) If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases will not be affected but will remain in full force and effect.

6.06.190 Clean & Safe District.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

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- A. The Clean & Safe District is that area within the boundaries formed by NW and SW Front Avenue on the east; SW Harrison between SW Front and SW 4th; SW 4th between SW Harrison and SW Market; SW Market between SW 4th and SW 9th; SW 9th between SW Market and SW Salmon; SW Salmon between SW 9th and SW 11th; SW 11th between SW Salmon and W Burnside; W Burnside between 11th and 9th; NW 9th between W Burnside and NW Hoyt; NW Hoyt between NW 9th and NW Broadway; and the Broadway Bridge on the north; but excluding the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.
- B. Notwithstanding the exclusion set out in Subsection A. of this Section, beginning with the license year commencing October 1, 2004, the Clean & Safe District also will include the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.

(Amended by Ordinance Nos. 175840, 176776, 176955, 179000 and 185495, effective July 11, 2012.)

- A. The fee established by this Chapter for management of business property in the Clean & Safe District in a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
 - 1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 - 2. Plus \$5.52 per 290 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 - 3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 - 4. Plus 2.5 percent of the sum of Subsections A.1. through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 50 District business properties used primarily for business activities with the highest value of improvements; and
 - 5. Less 2.5 percent of the sum of Subsections A.1 through 3., as to any business property as to which the licensee is engaged in property

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management activities, if the business property is among the 51st to the 150th District business properties used primarily for business activities with the highest value of improvements;

6. Plus 15 percent of the amounts determined under subsections A.1. through 5.;
7. Plus \$.01401 (1.401 cents) per square foot of improvements and, for surface parking lots, per square foot of land square footage, as of the July 1 immediately preceding commencement of the license fee year;
8. Plus 20.03 percent of the amounts determined under Subsections A.1. through 7. which is the inflation that occurred during license years 2001 through 2011.
9. Plus the total of the amounts determined under Subsections A.1. through 7. multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2012.

B. “Value of improvements” under this Section will be measured as follows:

1. For business property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For business property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For business property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license fee years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development

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Review records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date;
or

- b. For license fee years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;
 - 4. For business property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
 - 5. For business property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$73 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a business property building, structure, or addition for the property tax assessment year beginning on that July 1, then:
- 1. For purposes of initially determining the license fee for such license year, the value of improvements, improvements square footage, and elevator

capacity attributable to the business property building, structure, or addition will be deemed to be zero; and

2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy the building, structure, or addition as to which the property tax assessment was cancelled, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be the date the Bureau of Development Services issues a written authorization to occupy all new improvements on the business property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new improvements on the property, whichever occurs first.

6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.

(Amended by Ordinance Nos. 175840, 176955 and 185495, effective July 11, 2012.)

- A. The fee established by this Chapter for management of residential property in the Clean & Safe District for a license year, other than affordable residential rental property as defined in Section 6.06.211, will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
 1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
 2. Plus \$5.52 per 725 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
 3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
 4. Plus 15 percent of the amounts determined under Subsections A.1. through 3.;

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5. Plus 20.03 percent of the amounts determined under Subsections A.1. through 4. which is the inflation that occurred during license years 2001 through 2011.
 6. Plus the total of the amounts determined under Subsections A.1. through 4. multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2012.
- B.** “Value of improvements” under this Section will be measured as follows:
1. For residential property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
 2. For residential property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
 3. For residential property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
 - a. For license years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
 - b. For license years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in

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which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For residential property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
 5. For residential property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$68 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a residential property building, structure, or addition subject to this Section, for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvement square footage, and elevator capacity attributable to the building, structure, or addition will be deemed to be zero; and
 2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy new residential improvements on the property, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under

Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be date the Bureau of Development Services issues a written authorization to occupy all new residential improvements on the property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new residential improvements on the property, whichever occurs first.

6.06.211 Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.

(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of affordable residential rental property in the Clean & Safe District for a license year will be the sum of the following amounts, computed separately in relation to each such residential property within the District as to which the licensee is engaged in property management activities:

 - 1.** If the licensee is a not-for-profit corporation or a government entity, \$20 multiplied by the number of affordable residential dwelling units managed by the licensee; and
 - 2.** If the licensee is other than a not-for-profit corporation, \$44 multiplied by the number of affordable residential dwelling units managed by the licensee.

- B.** For purposes of this Section, “affordable residential rental property” means single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on the July 1 immediately preceding commencement of the license year, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of that July 1. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

- C.** For purposes of this Section, “dwelling units” means dwelling units as defined in Chapter 33.910 of this Code.

6.06.212 Clean & Safe District Exempt Property.

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) The Clean & Safe District property management license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Subsection 6.06.020 I. and also means exempt residential property. “Exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service.

6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.

(Amended by Ordinance No. 185495, effective July 11, 2012.) In computing Clean & Safe District property management license fees under Sections 6.06.200, 6.06.210, and 6.06.211, in relation to property within the District as to which the licensee is engaged in property management activities, where the property is a combination of any two or more of business property that is subject to Section 6.06.200, residential property that is subject to Section 6.06.210, residential property that is subject to Section 6.06.211, exempt property that is subject to Section 6.06.212, or property managed by a person generally exempt under Section 6.06.050 but where the exemption does not apply in relation to part of the property the person manages, the fee in relation to property management activities will be the sum of the following:

- A.** For management of the part of the property that is business property subject to Section 6.06.200, the fee computed under Section 6.06.200 computed as though the entire property were such business property, multiplied by a fraction, the numerator of which is the square footage of business property improvements on the property subject to Section 6.06.200 and the denominator of which is the square footage of all improvements on the property;
- B.** For management of the part of the property that is residential property subject to Section 6.06.210, the fee computed under Section 6.06.210 computed as though the entire property were such residential property, multiplied by a fraction, the numerator of which is the square footage of residential property improvements on the property subject to Section 6.06.210, and the denominator of which is the square footage of all improvements on the property; and
- C.** For management of the part of the property that is residential property subject to Section 6.06.211, the fee computed under Section 6.06.211.
- D.** If there are common area improvements in a property subject to this Section, then in computing square footage of business property improvements subject to Subsection A. of this Section and of residential property improvements subject to Subsection B. of this Section, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square

footage of business property improvements subject to Subsection A. of this Section or the square footage of residential property improvements subject to Subsection B. of this Section, whichever is appropriate, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

6.06.214 Clean & Safe District Square Footage of Improvements.

(Added by Ordinance No. 176262; Amended by Ordinance No. 185495, effective July 11, 2012.) For purposes of Sections 6.06.200, 6.06.210 and 6.06.213 only, the terms "square footage of improvements" and "improvements square footage" will not include:

- A. Surface area of surface parking lots;
- B. Landscaped area;
- C. Unenclosed sidewalk, plaza, and courtyard area;
- D. Below grade parking area (but, for parking structures that have above grade parking, will include both any at grade parking area within the parking structure and all above grade parking area within the parking structure); and
- E. Other below grade area unless improved for occupancy by employees or tenants.

6.06.215 Pledging of Clean & Safe District License Fee Revenues.

(Amended by Ordinance Nos. 176776 and 185495, effective July 11, 2012.)

- A. In addition to the uses of District revenues set out in Section 6.06.010, the City, if so requested in writing by a qualified contractor and approved by the City Council, may pledge Clean & Safe District license fee revenues as security for City debt incurred to finance the design, acquisition, construction, and installation of improvements within the District and may pledge Clean & Safe District license fee revenues to a qualified contractor or its designee in order that the contractor or designee may have revenues sufficiently ensured to enable the contractor or designee to incur debt to finance the design, acquisition, construction, installation, operation and maintenance of improvements within the District. Any such pledge of Clean & Safe District license fee revenues will be subject to any limitations set out in Oregon law or in the City Charter. In addition, no City pledge or combination of pledges under this Section for City payment of actual debt service or to enable the qualified contractor or its designee to make payments of actual debt service, but not including pledges to provide excess coverage for City payment of actual debt service or to enable the qualified contractor or its designee to provide excess coverage for payments of actual debt service, at any time will exceed one-third of the Clean & Safe District license fee revenues.

- B.** In making a request under Subsection A. of this Section, the qualified contractor will submit to the City a description of the improvements to be funded in whole or in part with the proceeds of the debt financing. The request also will include a description of any previously provided Clean & Safe District services proposed to be reduced or not provided due to the pledge of the District license fee revenues.
- C.** Notwithstanding Section 6.06.010, if the City pledges District license fee revenues for City debt incurred in accord with this Section, the City will retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

6.06.216 Lighting and District Amenities Revenues and Program.

(Added by Ordinance No. 176776; amended by Ordinance Nos. 179000, 185495 and 186288, effective November 15, 2013.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8.
- B.** As used in this Chapter, “lighting program” means the design, acquisition, construction, installation, operation, and maintenance of all components, including but not limited to electrical connections and decorative lighting fixtures, necessary for a seasonal and decorative lighting system within portions of the District.
- C.** As used in this Chapter, “district amenities revenue” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8. in excess of amounts necessary to fund the lighting program in Subsection B. in a given year.
- D.** As used in this Chapter, “district amenities program” means the design, acquisition, construction, installation, operation, and maintenance of all components of amenities that improve the safety, function, and appearance of downtown sidewalks including but not limited to:
 - 1.** Trash receptacles, including solar trash compactors;
 - 2.** Co-located publication boxes.
- E.** Notwithstanding Section 6.06.010, lighting revenues and district amenities revenues will be used only:
 - 1.** For the lighting program and district amenities program as set forth above, including but not limited to the pledging of such revenue as provided under Section 6.06.215;
 - 2.** For a proportionate share of the Bureau’s costs of administration of the license fee directed by the City Council to be recovered from license fee

revenues, based on the ratio of lighting revenue and district amenities revenues to total District revenues; or

3. If a qualified contractor determines that lighting revenue and district amenities revenues in a license year will exceed or have exceeded the costs and expenses of the lighting program and the district amenities program in that license year and that the excess revenues will not be needed to fund a prudent reserve or for the costs and expenses of the lighting program and district amenities program in future license years, then for distribution by the qualified contractor to the payers of the lighting revenues and district amenities revenues of that portion of the excess determined by the qualified contractor not to be so needed, in proportion to the amount paid by each payer in the license year that produced the excess.

6.06.220 Clean & Safe District Periodic Sunset Review.

(Amended by Ordinance No. 185495, effective July 11, 2012.) During 2011 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Clean & Safe District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Clean & Safe District licensees under this Chapter.

6.06.230 Clean & Safe District Early Termination.

(Amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before March 30 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Clean & Safe District property management license fee during that year, then the license fee for the Clean & Safe District will be terminated as of September 30 of that license fee year except that the fee will continue, at a rate reduced equally proportionally as to each licensee, to the extent necessary to meet any City pledge obligations incurred as authorized by Section 6.06.215.

6.06.240 Request Annual CPI Increase to be Different than Calculated.

(Added by Ordinance No. 185495; amended by Ordinance No. 187339, effective October 16, 2015.)

- A. The contractor's Board of Directors may recommend that the annual CPI adjustment be set to an amount other than the CPI calculation, but not less than zero for a license year.
 1. The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Division no later than June 10th. The resolution must contain the following information:

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- a. The reason why the board is requesting the annual CPI adjustment to be set at a rate that is different than calculated;
 - b. What the CPI adjustment amount for the license year should be; and
 - c. The impact on the upcoming budget that will result if a different CPI adjustment is made, specifically as it relates to contract employee wages and contract service levels.
 - d. The impact to District services.
2. The Revenue Division will review the information from the contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower CPI adjustment. The Revenue Division will make a recommendation to City Council if a different CPI adjustment is warranted for the upcoming license year.
 3. City Council must approve a different CPI adjustment prior to August 1st;
 4. An approved different CPI adjustment will apply to the license year that begins on October 1st.
- B.** Once one or more different CPI adjustments have been approved by City Council, the Revenue Division has authority to adjust the CPI component in the fee rate formulas in Subsections 6.06.200 A.9., and 6.06.210 A.6. The Revenue Division will document via written policy all changes to the CPI calculation as a result of City Council approval and this policy will supersede the calculation defined in Subsection 6.06.020 E.

6.06.250 Lloyd District.

(Amended by Ordinance No. 186356, effective November 27, 2013.) The Lloyd District is that area within the boundaries formed by the Willamette River, from the Broadway Bridge to the point just south of the Oregon Convention Center at which NE Lloyd Boulevard reaches the River; NE Lloyd Boulevard, from the Willamette River to NE 16th Avenue; NE 16th Avenue curving into NE 15th Avenue, from NE Lloyd Boulevard to NE Halsey Street; NE Halsey Street, from NE 15th Avenue to NE Grand Avenue; NE Grand Avenue, from NE Halsey Street to NE Broadway; and NE Broadway, from NE Grand Avenue to the Willamette River.

6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.

(Amended by Ordinance Nos. 176262, 176955, 182925, 185495 and 186356, effective November 27, 2013.)

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- A.** Except as set out in Subsection B. of this Section, the fee established by this Chapter for management of business and residential property in the Lloyd District for a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
1. \$.40 (cents) per \$1,000 of assessed value of improvements for the 2010-2011 property tax assessment year;
 2. Plus \$2.25 per 290 square feet of improvements as of July 1, 2010;
 3. Plus \$.015 (cents) per square foot of land as of July 1, 2010.
 4. Plus the total of the amounts determined under Subsections A.1. through A.3. multiplied by a 2.3 percent annual escalator for license years commencing on or after February 1, 2015.
- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 2010 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 2010, the fee established by this Chapter, for management of such property in the Lloyd District in a license year, will be as provided in this Subsection:
1. During the period between the date the City Bureau of Development Services issues an authorization, documentable by written documentation, to occupy the improvements, or during the period between 180 days after the date the Bureau of Development Services issues such an authorization to occupy any portion of the improvements that was not occupied while the physical changes were being made, and the date of beginning of the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee otherwise payable during the period will be adjusted to the following amount, prorated based on the number of days of the period in the applicable license year:
 - a. The amount determined under Subsection A.1., plus \$.40 (cents) per \$1,000 of the cost of the physical changes, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes;
 - b. Plus the amount determined under Subsection A.2., plus \$2.25 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of

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Development Services records of building permits issued authorizing or in association with the physical changes;

- c. Plus the amount determined under Subsection A.3.
2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee will be:
 - a. \$.40 (cents) per \$1,000 of assessed value of improvements for the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - b. Plus \$2.25 per 290 square feet of improvements, as of July 1 of the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
 - c. Plus the amount set out in Subsection A.3.;
 - d. Plus the total of the amounts determined under Subsections B.2.a. through B.2.c. multiplied by a 2.3 percent annual escalator for the license years commencing on or after February 1, 2015.
- C. In computing the fee as provided in Subsection A. or B.:
 1. In relation to real property within the Lloyd District as to which a licensee is engaged in property management activities, where the property in part is exempt residential property or religious organization property or,
 2. In relation to persons generally exempt from the license requirements of this Chapter under Section 6.06.050 but where the exemption does not apply to property management activities in relation to part of the property they manage, the fee in relation to property management activities as to such real property will be the fee computed as though management of the entire property were subject to the fee multiplied by a fraction, the numerator of which is the square footage of the area in which the licensee is engaged in property management activities subject to the fee (including land or improvements, as applicable) and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable).

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- 3.** In relation to property within the District as to which there is more than one property manager for a given property, the fee for each property manager will be calculated as follows:

 - a.** Each property manager’s fee will first be computed as though the property manager was subject to the fee for the entire property. That amount will then be multiplied by a fraction, the numerator of which is the square footage of the area for which the property manager is engaged in property management activities subject to the fee (including land or improvements, as applicable), and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable); and
 - b.** If there are common area improvements in a property subject to Subsection a. above, then in computing square footage of each property manager’s improvements, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square footage of the property improvements subject to this fee for each district manager, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.
- D.** Notwithstanding the amount of the fee computed under Subsections A., B., and C., of this Section, in no case will the fee payable by a licensee, in relation to all real property within the Lloyd District as to which the licensee is engaged in property management activities, exceed \$35,000 for non-residential zoned property and \$8,500 for non-exempt residential zoned property.
- E.** The Lloyd District license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Section 6.06.020 I. and also means exempt residential property. For purposes of this Section, “exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service; single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on July 1, 1997, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of July 1 of each year. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code, as in effect on January 1, 1997; or the units are subsidized

through United States Department of Housing and Community Development Section 8 subsidies, as in effect on January 1, 1997, or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.

F. For purposes of this Section only, the terms "square feet of improvements" and "square footage of improvements" will not include:

1. Surface and structured parking lot area;
2. Landscaped area;
3. Unenclosed sidewalk, plaza, and courtyard area; and
4. Below grade area unless improved for occupancy by employees or tenants.

6.06.270 Revisions to License Fee Year Schedule.

(Amended by Ordinance Nos. 178073, 185495, 186356 and 187339, effective October 16, 2015.) Notwithstanding that Sections 6.06.010 through 6.06.180 are based on a license fee year of October 1 through September 30, the license fee year for the Lloyd District will be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the due dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd District, will be February 15 and September 15 except that the August 1 date set out in Section 6.06.090 will be January 5. Any other dates are also changed to provide at least 30 days notice before a due date and may be clarified by the Revenue Division in a written policy.

6.06.280 Lloyd District Periodic Sunset Review.

(Replaced by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) During 2013 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Lloyd District property management license fee should be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Lloyd District licensees under this Chapter.

6.06.290 Lloyd District Early Termination.

(Added by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) If the City Council, on or before July 31 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Lloyd District property management license fee during that year, then the license fee for the Lloyd District will be terminated as of January 31 of that license fee year.

6.06.300 Request That Annual Lloyd District Escalator Be Lowered.

(Added by Ordinance No. 186356; amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** The Lloyd District contractor's Board of Directors may recommend that the annual 2.3 percent escalator adjustment be set to an amount lower than 2.3 percent for a particular license year.
 - 1.** The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue Division no later than October 10th. The resolution must contain the following information:
 - a.** The reason why the board is requesting the annual escalator adjustment be set at a rate that is lower than 2.3 percent;
 - b.** What the Board recommends as the appropriate escalator amount for the license year;
 - c.** The impact on the upcoming budget that will result if a lower escalator adjustment is made, specifically as it relates to contract employee wages and contract service levels; and
 - d.** The impact to District services.
 - 2.** The Revenue Division will review the information from the Lloyd District contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower escalator adjustment. The Revenue Division will make a recommendation to City Council if a lower escalator adjustment is warranted for the upcoming license year.
 - 3.** City Council must approve a lower escalator adjustment prior to December 1st.
 - 4.** An approved lower escalator adjustment will apply to the next license year that begins on February 1st.
- B.** City Council's approval to decrease the annual escalator for any given year has no effect on future years, and the District contractor's Board must follow the process outlined in Subsection A.1. of this Section for each year it wishes to recommend a rate lower than the prescribed 2.3 percent escalator.

**CHAPTER 6.07 - TAX ON RECREATIONAL
MARIJUANA SALES**

(Chapter added by Ordinance No. 186857; amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

Sections:

| | |
|----------|---|
| 6.07.010 | Purpose. |
| 6.07.020 | Definitions. |
| 6.07.030 | Levy of Tax. |
| 6.07.035 | Exemption of Medical Marijuana Cardholders from Marijuana Tax. |
| 6.07.040 | Deductions. |
| 6.07.050 | Seller Responsible for Payment of Tax. |
| 6.07.060 | Penalties and Interest. |
| 6.07.070 | Failure to Report and Remit Tax – Determination of Tax by Director. |
| 6.07.080 | Appeal. |
| 6.07.090 | Credits/Refunds. |
| 6.07.100 | Actions to Collect. |
| 6.07.110 | Violation Infractions. |
| 6.07.120 | Confidentiality. |
| 6.07.130 | Audit of Books, Records or Persons. |
| 6.07.140 | Forms and Regulations. |
| 6.07.145 | Net Revenues Distribution. |
| 6.07.150 | Invalidity. |
| 6.07.155 | Effective Date. |

6.07.010 Purpose.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) For the purposes of PCC 6.07, every person who sells recreational marijuana, or recreational marijuana-infused products, to consumers within the City is exercising a taxable privilege. The purpose of PCC 6.07 is to impose a tax upon recreational marijuana and recreational marijuana-infused product sales to consumers within the City.

6.07.020 Definitions.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) When not clearly otherwise indicated by the context, the following words and phrases as used in PCC 6.07 have the following meanings:

- A. “Director”** means the director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee, and includes any Person or entity with whom the City contracts to administer and enforce the Marijuana Tax program or a portion thereof.

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- B.** “**Consumer**” means a person who purchases, acquires, owns, holds or uses marijuana other than for the purpose of resale.
- C.** “**Marijuana**” means the plant of the Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” includes cannabinoid products, cannabinoid concentrates and cannabinoid extracts as those terms are defined in ORS 475B.015. Marijuana does not include industrial hemp, as defined in ORS 571.300.
- D.** “**Oregon Medical Marijuana Program**” means the office within the Oregon Health Authority that administers the provisions of ORS 475B.400 to 475B.525, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E.** “**Person**” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F.** “**Retail sales price**” means the price paid for marijuana, excluding tax, to a Seller by or on behalf of a Consumer of marijuana.
- G.** “**Retail Sale**” means any transfer, exchange, gift or barter of marijuana by a seller to a consumer.
- H.** “**Seller**” means any person who is required to be licensed or has been licensed under ORS 475B.110 to sell marijuana to a consumer within the City of Portland.
- I.** “**Tax**” means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under PCC 6.07.
- J.** “**Taxpayer**” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of PCC 6.07.

6.07.030 Levy of Tax.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** Every Seller exercising the taxable privilege of retail sales of marijuana within the City of Portland is subject to and must pay a tax for exercising that privilege.
- B.** The amount of tax levied is as follows: Three percent of the retail sales price paid to the Seller in a retail sale of marijuana to any Consumer.

6.07.035 Exemption of Medical Marijuana Cardholders from Marijuana Tax.

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** As used in this Section, “designated primary caregiver,” “registry identification card” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.

- B.** Notwithstanding Section 6.07.030:
 - 1.** A tax is not imposed upon the retail sale of marijuana in the City of Portland by a Seller to a registry identification cardholder or to a designated primary caregiver who is purchasing marijuana for a registry identification cardholder; and

 - 2.** A Seller may not collect the tax imposed under Section 6.07.030 from a Consumer if, at the time at which the retail sale of the marijuana occurs, the Consumer provides proof to the Seller that the Consumer:
 - a.** Holds a valid registry identification card under ORS 475B.415; or

 - b.** Holds a valid identification card under ORS 475B.415 (5)(b) and is purchasing the marijuana for a registry identification cardholder.

6.07.040 Deductions.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) The following deductions are allowed against sales received by the Seller providing marijuana:

- A.** Refunds of sales actually returned to any Consumer;

- B.** Any adjustments in sales that amount to a refund to a Consumer, providing such adjustment pertains to the actual sale of marijuana and does not include any adjustments for other services furnished by a Seller.

6.07.050 Seller Responsible for Payment of Tax.

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the tax. The Director may require further information in the return relevant to the

payment of the tax. A return is not considered filed until it is actually received by the director.

- B.** The Seller must remit to the Director the full amount of the tax collected for each month by the last day of the subsequent month. Payments must be remitted with forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C.** The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D.** If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to PCC 6.07 on the City's behalf until the Seller makes payment to the Director. A separate trust bank account is not required in order to comply with this provision, unless the Director determines one necessary to ensure collection of the tax.
- E.** Every Seller must keep and preserve in an accounting format established by the Director records of all sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years after the tax was due or paid, whichever is later, all such books, invoices and other records. The Director has the right to inspect all such records at all reasonable times.

6.07.060 Penalties and Interest.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance No. 188215; effective March 3, 2017.)

- A.** Any Seller who fails to remit any portion of any tax imposed by PCC 6.07 within the time required must pay a penalty of 5 percent of the unpaid tax, in addition to the amount of the tax.

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- B.** If any Seller fails to file any return for a period in excess of one month after the return due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of the tax. Thereafter the Director or designee may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after the notice and demand no report or return is filed within the 30 days, the Director or designee may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the department and give written notice of the determination and assessment to the person required to make the filing.
- C.** In addition to the penalties stated in PCC 6.07.060 A. and PCC 6.07.060 B., if tax returns are not filed by the due date for three consecutive years, a penalty of 100 percent of the unpaid tax will be assessed for each year.
- D.** If the Director determines that the nonpayment of any remittance due under PCC 6.07 is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added thereto in addition to the penalties stated in PCC 6.07.060 A., PCC 6.07.060 B. and PCC 6.07.060 C.
- E.** In addition to the penalties imposed, any Seller who fails to remit any tax imposed by PCC 6.07 must pay interest at the annual rate of 5 percent on the amount of unpaid tax from the date on which the remittance first became delinquent until paid. The interest rate will remain at 5 percent unless this rate is adjusted under the administrative authority of the Director or designee to reflect then current national market conditions for interest rates.
- F.** All sums collected, including penalty and interest, will be distributed to the City's Recreational Marijuana Tax Fund.
- G.** Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the Director.

6.07.070 Failure to Report and Remit Tax – Determination of Tax by Director.

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** If any Seller fails to make any report of the tax required by PCC 6.07 within the time provided in PCC 6.07, the Director may proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Director procures such facts and information upon which to base the assessment of any tax imposed by PCC 6.07 and payable by any Seller, the Director may determine and assess against such Seller the tax, interest and penalties provided for by PCC 6.07.
- B.** If the Director makes a determination as outlined in PCC 6.07.070 A., the Director must give notice to the Seller of the amount assessed. The notice must be personally

served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.

- C. The Seller may appeal the determination as provided in PCC 6.07.080. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

6.07.080 Appeal.

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. Any Seller aggrieved by any decision of the Director with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the Director or designee.
- B. The Seller must follow the administrative appeal process that is set forth by the Director or designee.

6.07.090 Credits/Refunds.

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. The Director may credit to the Seller any tax, interest or penalty amount under any of the following circumstances:
 - 1. The Seller has overpaid the correct amount of tax, interest or penalty; or
 - 2. The Seller has paid more than once for the correct amount owed; or
 - 3. The City has erroneously collected or received any tax, interest or penalties.
- B. If the Director determines the claim is valid, the claimant may take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City.
- C. In cases where a there is no future filing to claim the credit or other circumstances where a credit amount should be refunded, the claimant may petition the director to have the credit amount refunded to the claimant.

6.07.100 Actions to Collect.

Any tax required to be paid by any Seller under the provisions of PCC 6.07 is a debt owed by the Seller to the city. Any tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any person owing money to the City under the provisions of PCC 6.07 is liable to an action brought in the name of the City of Portland for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS

697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees.

6.07.110 Violation Infractions.

- A.** All violations of PCC 6.07 are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of PCC 6.07 for any Seller or other person to:
 - 1.** Fail or refuse to comply as required herein;
 - 2.** Fail or refuse to furnish any return required to be made;
 - 3.** Fail or refuse to permit inspection of records;
 - 4.** Fail or refuse to furnish a supplemental return or other data required by the director;
 - 5.** Render a false or fraudulent return or claim; or
 - 6.** Fail, refuse or neglect to remit the tax to the City by the due date.
- B.** The remedies provided by PCC 6.07 are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C.** The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

6.07.120 Confidentiality.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of PCC 6.07. Nothing in PCC 6.07.120 prohibits any of the following:

- A.** The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B.** The disclosure of general statistics in a form which would not reveal an individual Seller's financial information; or
- C.** Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amounts due the city under PCC 6.07; or

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- D.** The disclosure of information to a collection agency in order to collect any delinquent tax amount; or
- E.** The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).
- F.** The Revenue Division may also disclose and give access to information described in PCC 6.07.120 to:
 - 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Revenue Division deems disclosure or access necessary for the performance of the duties of advising or representing the Revenue Division, including but not limited to instituting legal actions on unpaid accounts.
 - 2.** Other employees, agents and officials of the City, to the extent the Revenue Division deems disclosure or access necessary for such employees, agents or officials to:
 - a.** Aid in any legal collection effort on unpaid accounts,
 - b.** Perform their duties under contracts or agreements between the Revenue Division and any other department, bureau, agency or subdivision of the City or state relating to the administration of PCC 6.07, or
 - c.** Aid in determining whether a Revenue Division account is in compliance with all city, state and federal laws or policies.

6.07.130 Audit of Books, Records or Persons.

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income tax return, bearing upon the matter of the Seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts and records for examination.

6.07.140 Forms and Regulations.

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance No. 188215; effective March 3, 2017.)

- A. The Director is authorized to enter into contracts or agreements relating to the administration of PCC 6.07, including intergovernmental agreements with the State of Oregon as provided in ORS 305.620, and to prescribe forms and promulgate rules, policies and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:
 - 1. A form of report on sales and purchases to be supplied to all Sellers;
 - 2. The records that Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by PCC 6.07.
- B. Notwithstanding any other provisions in this Chapter, the State of Oregon, if appointed as the designee, may apply the provisions of ORS 475B.700 to ORS 475B.755 in the administration of the Portland tax.

6.07.145 Net Revenues Distribution.

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) Net revenues remaining after collection, refunds, credits, and costs related to administration of the tax will be distributed by the City as follows:

- A. In the course of developing the City's budget, the Bureau of Revenue and Financial Services shall report the projected balance in the Recreational Marijuana Tax Fund at the beginning of the next fiscal year.
- B. Allocation of revenue from the Recreational Marijuana Tax Fund shall occur annually as part of the public budget adoption process followed by Council, with funding allocations made annually by City Council.
- C. These funds shall be allocated in the Adopted Budget for the following purposes:
 - 1. Drug and alcohol education and treatment programs, including but not limited to services that facilitate or increase access to drug and alcohol education and treatment, and programs that support rehabilitation and employment readiness.
 - 2. Public safety, including police, fire, and transportation safety purposes that protect community members from unsafe drivers. Examples include but are not limited to police DUII training and enforcement, support for firefighter paramedics, street infrastructure projects that improve safety, and other initiatives to reduce impacts of drug/alcohol abuse.

3. Support for neighborhood small businesses, especially women-owned and minority-owned businesses, including but not limited to business incubator programs, management training, and job training opportunities; and providing economic opportunity and education to communities disproportionately-impacted by cannabis prohibition.

6.07.150 Invalidation.

If any section, clause, phrase, sentence or part of this Chapter shall for any reason be adjudged unconstitutional, invalid or unenforceable, it shall only void that part, clause, phrase or section so declared and the remainder shall remain in full force and effect.

6.07.155 Effective Date.

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) This Chapter will be in full force and effect upon approval by the voters in the November 8, 2016 election. The tax levied in PCC 6.07.030 shall be imposed beginning on and after January 1, 2017. The Director is authorized to collect amounts receivable under this Chapter for taxes, interest and penalties.

**CHAPTER 6.08 – CONSTRUCTION EXCISE
TAX**

(Chapter added by Ordinance No. 187855, effective
August 1, 2016.)

Sections:

- 6.08.010 Purpose.
- 6.08.020 Definitions.
- 6.08.030 Administration and Enforcement Authority.
- 6.08.040 Administrative Authority Rulemaking.
- 6.08.050 Imposition of Tax.
- 6.08.060 Exemptions.
- 6.08.070 Failure to Pay.
- 6.08.080 Statement of Entire Value of Improvement Required.
- 6.08.090 Interest and Penalties for Failure to Comply.
- 6.08.100 Enforcement by Civil Action.
- 6.08.110 Refunds.
- 6.08.120 Appeals.
- 6.08.130 Dedication of Revenue.

6.08.010 Purpose.

This Chapter establishes a Construction Excise Tax on commercial and residential improvements to provide funding for affordable housing in the City of Portland. Chapter 6.08 of the City Code shall be known as the Construction Excise Tax.

6.08.020 Definitions.

(Amended by Ordinance No. 187975, effective September 7, 2016.) As used in this Chapter, unless the context requires otherwise:

- A. **“Commercial”** means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes.
- B. **“Construct”** or **“Construction”** means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law.
- C. **“Improvement”** means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or the addition of living space to an existing structure.
- D. **“Mass Shelters”** means a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or

non-profit agency to provide shelter. For mass shelters, “affordable” means that shelter is provided on a daily basis without a fee. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.

- E.** “**Median family income**” means median family income by household size for the Portland Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development as adjusted for inflation and published periodically.
- F.** “**Net Revenue**” means revenues remaining after the administrative fees described in Section 6.08.130 are deducted from the total Construction Excise tax collected.
- G.** “**Residential**” means structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.
- H.** “**Value of Improvement**” means the total value of the improvement as determined by the construction permit or building permit for the Improvement. The Bureau will calculate the total value by determining the value per square foot based on building type using the International Code Council Building Valuation Data Tables and multiplying that value by the area of the new structure or additional square footage from the exterior surface of the outside wall.

6.08.030 Administration and Enforcement Authority.

- A.** The Bureau of Development Services is responsible for the administration of this Chapter as described in Sections 6.08.050 and 6.08.060. In exercising the responsibilities of this section, the Bureau of Development Services may act through designated representatives.
- B.** Except as provided in Subsection 6.08.030 A., the Portland Housing Bureau is responsible for administration and enforcement of this Chapter. In exercising the responsibilities of this Section, the Portland Housing Bureau may act through designated representatives.

6.08.040 Administrative Authority Rulemaking.

- A.** The Director of the Portland Housing Bureau may adopt procedures, forms and written policies for administering the Construction Excise Tax. Authority granted to the Director of the Portland Housing Bureau under this Chapter 6.08 may be delegated, in writing, to employees or agents of the Portland Housing Bureau. The Director of the Portland Housing Bureau may adopt rules related to matters within the scope this Chapter 6.08, conforming to the intent and purpose of this Chapter

6.08. Adoption of rules by the Director shall follow the procedures set forth in this Section.

B. Permanent rules.

1. Prior to the adoption of a permanent rule, the Director will:
 - a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.
 - b. At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
 - c. The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
 - d. If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
2. Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

C. Interim rules.

1. The Director may adopt interim rules without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
2. Interim rules may be effective for a period of no longer than 180 days.
3. Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement.

Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules must be filed in the offices of the Portland Housing Bureau's Director. All final and interim rules will be made available to the public at the Development Services Center, and posted on the City's website.

6.08.050 Imposition of Tax.

- A.** Each person who applies to construct a commercial improvement in the City of Portland shall pay a commercial construction excise tax in the amount of 1 percent of the value of the improvement.
- B.** Each person who applies to construct a residential improvement in the City of Portland shall pay a residential construction excise tax in the amount of 1 percent of the value of the improvement.
- C.** The construction excise tax shall be due and payable prior to the issuance of any building permit by the Bureau of Development Services.

6.08.060 Exemptions.

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** No tax imposed under this Chapter shall be imposed upon the following improvements:
 - 1.** Improvements when the value of improvement is less than or equal to \$100,000;
 - 2.** Residential housing units guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income, for a period of at least 60 years following the date of construction of the residential housing;
 - 3.** Owner occupied residential properties qualifying under the property tax exemption program under Portland City Code Chapter 3.102.
 - 4.** Private school Improvements;
 - 5.** Public Improvements as defined in ORS 279A.010;
 - 6.** Public or private hospital Improvements;
 - 7.** Improvements to religious facilities primarily used for worship or education associated with worship;

8. Agricultural buildings, as defined in ORS 455.315 (2)(a);
 9. Facilities operated by a not-for-profit corporation and that are:
 - a. Long term care facilities, as defined in ORS 442.015;
 - b. Residential care facilities, as defined in ORS 443.400;
 - c. Continuing care retirement communities, as defined in ORS 101.020; or
 10. Mass Shelters.
- B.** Until June 30, 2018, no tax shall be imposed under this Chapter 6.08 on accessory dwelling units as defined by PCC 33.910.
- C.** The Portland Housing Bureau may require any person seeking an exemption to demonstrate that the person is eligible for an exemption and to establish all necessary facts to support the exemption.

6.08.070 Failure to Pay.

The Bureau of Development Services may not issue a building permit to any person who has failed to pay the tax required by Section 6.08.050.

6.08.080 Statement of Entire Value of Improvement Required.

It is a violation of this Chapter 6.08 for any person to fail to state or to misstate the full value of the improvement.

6.08.090 Interest and Penalties for Failure to Comply.

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** Interest. If the Director of the Portland Housing Bureau determines that a person has failed to pay to the City all or any part of the construction excise tax due under this Chapter 6.08, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of the underpayment. Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Penalties. In addition to assessing interest, the Director of the Portland Housing Bureau may assess a penalty of five percent of the otherwise applicable tax liability upon:
1. Any person that initially qualifies for an exemption under Subsections 6.08.060 A.2., 6.08.060 A.3. and 6.08.060 A.10. and the housing units subsequently fail to qualify for the exemption;

2. Any person who intentionally fails to state the full value of an improvement.
- C. Penalties and interest merged with tax. Any accrued interest and imposed penalties under the provisions of this Section shall be merged with and become a part of the construction excise tax required to be paid under this Chapter 6.08. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new interest amounts.

6.08.100 Enforcement by Civil Action.

The construction excise tax, and any assessed interest and penalties, due and owing under this Chapter 6.08 constitutes a debt owing to the City by the person liable for the tax as set forth in Section 6.08.050.

6.08.110 Refunds.

- A. The Portland Housing Bureau shall issue a refund to any person who has paid a construction excise tax the amount of the tax actually paid:
1. If the person establishes that the tax was paid for improvements that were otherwise eligible for an exemption under Section 6.08.060.
 2. If the person establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the Bureau of Development Services;
 3. Upon a determination by either the Director of the Portland Housing Bureau or the Code Hearings Officer that the amount of any construction excise tax, penalty, or interest has been erroneously collected or paid to the City under this Chapter 6.08.
- B. The Portland Housing Bureau shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Claims for refunds shall be made upon forms provided by the Portland Housing Bureau. The request for the refund must be submitted within three years from the date of payment of the construction excise tax.
- C. Denial of an application for refund may be appealed as provided for in Section 6.08.120.

6.08.120 Appeals.

- A. Administrative Review. Any written determination issued by either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08, believed to be in error may be reviewed by the Director of the

Portland Bureau of Housing if requested in writing by the recipient. The request for administrative review must be received within 10 days of the determination, and must include all documentation supporting the request. The Director's determination in the administrative review shall be served by regular mail.

- B.** Appeals. Any written determination from either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08 regarding liability for payment of construction excise taxes, the valuation of may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- C.** The filing of any notice of appeal shall not stay the effectiveness of the written determination unless the Code Hearings Officer so directs.

6.08.130 Dedication of Revenue.

- A.** The Bureau of Development Services may retain up to 4 percent of the taxes collected for payment towards the Bureau's administrative expenses related to collection and distribution of the tax.
- B.** For the tax imposed on residential improvements, the net revenues will be distributed as follows:
 - 1.** Fifteen percent of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
 - 2.** Fifty percent of net revenue will be transferred to the Portland Housing Bureau Inclusionary Housing Fund to fund finance-based incentives for programs that require affordable housing.
 - 3.** Thirty-five percent of net revenue will be transferred to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.
- C.** For the tax imposed on commercial improvements, 100 percent of net revenue will be distributed to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.

7.02.400 Exemptions.

(Amended by Ordinance Nos. 183727, 185394 and 187339, effective October 16, 2015.)
The Division may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A.** Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** The following incomes of an individual:
 - 1.** Income from sales, exchanges or involuntary conversions of a primary residence;
 - 2.** Income from the sale of personal property acquired for household or other personal use by the seller;
 - 3.** Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
 - 4.** Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- G.** Any person whose only business transactions are exclusively limited to the following activities:

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1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.
 2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- H.** Gross revenues subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, gross revenue which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

7.02.500 Tax Rate.

(Amended by Ordinance Nos. 187743 and 188129, effective January 6, 2017.)

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, except as provided in Subsections B., C., D. and E. of this Section.
- B.** Surcharges applicable to Tax Years 2002 through 2005. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland.
1. For the tax year beginning on or after January 1, 2002, a surcharge is imposed in the amount of 1 percent.
 2. For tax year beginning on or after January 1, 2003, a surcharge is imposed in the amount of 0.4 percent.
 3. For tax year beginning on or after January 1, 2004, a surcharge is imposed in the amount of 0.4 percent.
- C.** Surcharge applicable to Tax Years 2006 through 2007. The following surcharges are imposed in addition to the 2.2 percent tax established in Subsection A. above.

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The proceeds of the surcharges are dedicated to supplementing the funding provided by the State to the public schools within the City, and allocated to all of the public school districts within the City of Portland. The proceeds of the surcharges must be used by the school districts only for programs and activities on which the City is authorized to expend funds pursuant to its charter and state law.

1. For the tax year beginning on or after January 1, 2006, a surcharge is imposed in the amount of 0.14 percent.
2. No penalties or interest for failure to make quarterly estimated payments in the amount of the surcharge will be charged or imposed for the 2006 tax year.
3. For the tax year beginning on or after January 1, 2007, a surcharge is imposed in the amount of .07 percent.
4. If the surcharges raise more than \$9 million plus City costs but less than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be dedicated to public schools within the City as provided in Subsection C. of this Section. If the surcharges raise more than \$9.5 million plus City costs for the 2006 and 2007 tax years combined, the excess over \$9 million, less City costs, will be retained as a credit for taxes due in a later tax year. The Director will apply the credit to taxes due no later than the 2010 tax year. The Director has the sole discretion to determine the method of calculating and distributing credits.

D. Heavy Vehicle Use Tax applicable to Tax Years 2016 through 2019. The following tax is imposed in addition to the 2.2 percent tax established in Subsection A. above. The proceeds of this tax are dedicated to supplementing the funding of City of Portland street maintenance and safety and shall be deposited in a Street Repair and Traffic Safety Program of the Transportation Operating Fund where street repair and traffic safety expenditures are recorded.

1. For the tax years beginning on or after January 1, 2016, January 1, 2017, January 1, 2018 and January 1, 2019, a Heavy Vehicle Use Tax is imposed on taxpayers who operate one or more Heavy Vehicles on streets owned or maintained by the City of Portland. For purposes of this tax, a Heavy Vehicle is any vehicle that is subject to the Oregon Weight-Mile Tax pursuant to ORS 825.450 et seq. This tax is 2.8 percent of the total Oregon Weight-Mile Tax calculated for all periods within the tax year.
2. The minimum Heavy Vehicle Use Tax due for a tax year is \$100. The minimum tax would be in addition to the \$100 minimum tax described in Section 7.02.545, if applicable.

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3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Heavy Vehicle Use Tax will be charged or imposed for the 2016 tax year only. Thereafter, penalties and interest will be calculated as provided for in the Code.
 4. If the Heavy Vehicle Use Tax raises more or less than \$2.5 million plus City costs in the first or second tax year of the tax, the City will adjust the Heavy Vehicle Use Tax rate for subsequent tax years of the tax to reach the four year target of \$10 million plus City costs. The Revenue Division of the Bureau of Revenue and Financial services is authorized to adopt an administrative rule to implement this change, if needed.
- E.** Pay ratio surtax applicable to publicly traded companies subject to U.S. Securities and Exchange Commission pay ratio reporting requirements. The following surtax is imposed in addition to the 2.2 percent tax established in Subsection A. above.
1. For tax years beginning on or after January 1, 2017, a surtax of 10 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of at least 100:1 but less than 250:1 on U.S. Securities and Exchange Commission disclosures.
 2. For tax years beginning on or after January 1, 2017, a surtax of 25 percent of base tax liability is imposed if a company subject to this section reports a pay ratio of 250:1 or greater on U.S. Securities and Exchange Commission disclosures.

7.02.510 Registration Form and Tax Return Due Dates.

(Amended by Ordinance Nos. 183727 and 187339, effective October 16, 2015.)

- A.** All persons subject to the requirements of this Chapter must register with the Division on a form provided or approved by the Division. Thereafter, taxfilers must file tax returns with the Division. The following timing requirements apply:
1. Registration forms must be filed within 60 days of the person beginning business in the City.
 2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Division must conform to the due date under Oregon tax law.
- B.** The Division may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.

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- C. Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- D. The Bureau will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7.02.520 Quarterly Estimates.

Every taxfiler expecting to have a tax liability under Section 7.02.500 of \$1,000 or greater must make an estimate of the tax based upon the taxfiler's current tax year and pay the amount of tax determined as provided in Section 7.02.530.

7.02.530 Schedule for Payment of Estimated Tax.

(Amended by Ordinance No. 187339, effective October 16, 2015.) A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

- A. One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and
- B. One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C. One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and
- D. The balance of the estimated tax must be paid on or before the 15th day of the twelfth (12th) month of the tax year.
- E. Any payment of the estimated tax received by the Division for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated taxes due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

7.02.545 Tax Returns.

Except as provided in Section 7.02.540, each tax return must be accompanied by a tax payment at the rate established in Section 7.02.500, provided that each such tax return must be accompanied by a minimum tax of \$100 plus any amount due as a result of the temporary surcharge established in Section 7.02.500 B. and D. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

7.02.550 Presumptive Tax.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

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- A.** If a person fails to file a tax return, a rebuttable presumption exists that the tax payable amounts to \$500 for every license tax year for which a tax return has not been filed.
- B.** Nothing in this Section prevents the Division from assessing a tax due which is less than or greater than \$500 per license tax year.
- C.** Presumptive taxes assessed under this subsection are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Section 7.02.280.
- D.** Taxes determined under this subsection are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.02.510 in accordance with Sections 7.02.700 and 7.02.710. The Division will send notice of the determination and assessment to the taxfiler.

7.02.560 Payment Plan Fee.

(Amended by Ordinance No. 187339, effective October 16, 2015.) If a person fails to pay the business tax when due, the Division may establish a payment plan and charge a set up fee pursuant to written policy.

7.02.600 Income Determinations.

(Amended by Ordinance Nos. 183727, 185781, 186331 and 187339, effective October 16, 2015.)

- A. Owners Compensation Deductions.** “Owners Compensation Deduction” is defined as the additional deduction allowed in Subsections B., C. and D. below. The owners compensation deduction is indexed (beginning in January 1999) by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index). The Division determines the exact deduction amount and publishes the amount on forms. Any increase or decrease under this paragraph that is not a multiple of \$500 will be rounded up or down to the next multiple of \$500 at the Division’s discretion.
 - 1.** For tax years beginning on or after January 1, 2007, the Owners Compensation Deduction cannot exceed \$80,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2008, the Owners Compensation Deduction will be indexed as described above.
 - 2.** For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.

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3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.
- B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.
- C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:
1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
 2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.
- D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.
1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
 2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding

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stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.

3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.
- E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.
- F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.
- G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.
- H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.
- I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.
1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.

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2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.
3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

7.02.610 Apportionment of Income.

(Amended by Ordinance Nos. 182427, 184597 and 187339, effective October 16, 2015.)

- A. "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that are not protected from taxation by Public Law 86-272. Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the Business License Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax shall also be presumed to apply on an intrastate basis. If a taxpayer's business is based in Portland, a taxpayer must have business activity outside Portland that results in a jurisdiction to tax outside Portland to apportion the income of the business. Without jurisdiction to tax outside Portland, all income of a business is taxable by Portland.
- B. "Business activity" means any of the elements of doing business. The income reportable as income earned from business activity within the City of Portland will include all business incomes from sources within the City of Portland that are taxable incomes under Oregon tax laws and regulations unless otherwise exempted or excluded in this Chapter.
- C. In computing the business license tax, taxfilers that have income from business activity both within and without the City must determine the income apportioned to the City by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the City during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- D. In determining the apportionment of gross income within the City under Subsection 7.02.610 C.:

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1. Sales of tangible personal property are deemed to take place in the City if the property is delivered or shipped to a purchaser within the City regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the City to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the City.
 2. Sales other than sales of tangible personal property are deemed to take place in the City if the income producing activity is performed in the City.
- E.** Certain industries or incomes are subject to specific apportionment methodologies. Such methodologies are described in administrative rules adopted in accordance with Section 7.02.210. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales, will be used in cases where no rule has been adopted by the Division regarding the apportionment of such industry or income. When gross sales as reported to Oregon are used for apportionment purposes, such gross sales will be defined as gross income for apportionment purposes herein. All apportionment methodologies directed under this Subsection will be a single factor gross income apportionment as directed under Subsections 7.02.610 C. and 7.02.610 D. In those specific cases where Oregon has directed allocation of income, such income will be apportioned for purposes of this Chapter, unless allocation is otherwise allowed in this Chapter.
- F.** If the apportionment provisions of Subsection C. do not fairly represent the extent of the taxfiler's business activity in the City and result in the violation of the taxfiler's rights under the Constitution of this State or the United States, the taxfiler may petition the Division to permit the taxfiler to:
1. Utilize the method of apportionment used by the taxfiler under the applicable laws of the State of Oregon imposing taxes upon or measured by net income; or
 2. Utilize any other method to effectuate an equitable apportionment of the taxfiler's income.

7.02.620 Changes to Federal and/or State Tax Returns.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The

report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.

- B.** The Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C.** The Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax return is not filed with the Division within the time limits set forth in Subsection A.

7.02.630 Income Long Term Construction Contract Methods.

- A.** A taxfiler reporting income using a long term construction contract method must file an additional tax return for the taxfiler's income earned during the last license tax year, not later than the 15th day of the fourth (4th) month following the end of the prior license tax year during which either:
 - 1.** The taxfiler ceases to do business in the City; or
 - 2.** The taxfiler ceases to receive income from such long term construction contracts.
- B.** Net income for such taxfiler must include apportioned income arising from all contracts completed during such license tax year.

7.02.700 Penalties.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** A penalty will be assessed if a person:
 - 1.** Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
 - 2.** Fails to pay the tax when due.
 - 3.** The penalty under Subsection A. is:
 - a.** Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
 - b.** An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and

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- c. An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.

- B. A penalty will be assessed if a person who has filed an extension request:
 - 1. Fails to file a tax return by the extended due date; or
 - 2. Fails to pay the tax liability by the extended due date.
 - 3. The penalty under Subsection B. is:
 - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
 - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.

- C. A penalty will be assessed if a person:
 - 1. Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
 - 2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
 - 3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.

- D. A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.

- E. The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
 - 1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
 - 2. Failure to pay any tax within 60 days of the Division's original written notice for payment; or
 - 3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the Division's original written notice to provide the documents or information; or
 - 4. Failure to fully complete any form required under this Chapter.

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- F.** The Director may impose a civil penalty under Subsections E.2. and E.3. only if the Division gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G.** The Division may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

7.02.710 Interest.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Interest will be assessed on any unpaid business tax at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax to the 15th day of the month following the date of payment.
- B.** Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Sections 7.02.520 and 7.02.530 at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- C.** Notwithstanding Subsection B. there is no interest on underpayment of quarterly estimated payments if:
 - 1.** The total tax liability of the prior license tax year was less than \$1,000; or
 - 2.** An amount equal to at least 90 percent (0.90) of the total tax liability, but not less than \$100, for the current license tax year was paid in accordance with Section 7.02.530; or
 - 3.** An amount equal to at least 100 percent (1.00) of the prior year's total tax liability was paid in accordance with Section 7.02.530.
- D.** For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the Division by the due date of the fourth quarterly payment, the Division may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E.** For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.

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- F.** Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G.** Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Division, unless specifically provided for by written policy.

7.02.715 Payments Applied.

(Amended by Ordinance No. 187339, effective October 16, 2015.) Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the Division determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

7.02.720 Interest on Refunds.

(Amended by Ordinance No. 187339, effective October 16, 2015.) When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the Division, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

- A.** Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four (4) months after the later of:
 - 1.** the original due date of the tax return, or
 - 2.** the date the tax return was filed or the refund was otherwise requested, or
 - 3.** the date the business tax was paid to the date of the refund; and
- B.** Any overpayments of taxes that are the result of an amended tax return being filed will be refunded with interest for each month or fraction thereof for the period beginning four (4) months after the date the taxfiler filed the amended tax return. This Subsection applies to tax returns that are amended due to a change to the federal, state, city or county tax return.

7.02.730 Criminal Penalties for Violation of the Business License Law by City Employee or Agent.

Anyone knowingly violating Section 7.02.230 may be punished, upon conviction thereof, by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding six (6) months, or by both fine and imprisonment. Any City employee that is convicted will be dismissed from employment and is ineligible for holding any position of employment or office in the City for a period of five (5) years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five (5) years thereafter.

7.02.800 Refundable Credit.

(Amended by Ordinance No. 187339, effective October 16, 2015.) For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected youth. For the purpose of this credit, the terms used in this section are defined below or as defined in written policies adopted under Section 7.02.210 unless the context requires otherwise.

A. “Local Business” means a business operating in the pursuit of profit, gain or the production of income that:

1. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
2. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
3. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County Business Income Tax Law.

B. “Disconnected Youth” means a youth that is

1. a resident of the City of Portland,
2. is 16-24 years old on the date on which the youth begins working with the local business,
3. has a household income that is at or below 50 percent of the HUD Portland Area Median Income, and
4. one or more of the following apply:
 - a. is receiving (or has received in the last six months) or is a member of a family receiving Temporary Assistance for Needy Families or Aid to Families with Dependent Children or Supplemental Security Income; or
 - b. is a 16-24 year old member of a family that is receiving (or has received in the last six (6) months) food stamps; or
 - c. is a custodial parent; or
 - d. is a high school drop-out; or

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- e. is an adjudicated youth, meaning that he/she currently is, or has been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.
- C. **“Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.
- D. **“Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. **“Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Division to act as the Youth Certifying Agency for the purpose of this program.
- F. **“2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G. **“2006 Tax Year”** means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H. **“Non-exempt”** means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

7.02.810 Credits Issued.

- A. For the 2005 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. For the 2006 tax year, a total of 100 refundable credits of \$500 each will be available to non-exempt local businesses. The credit is non-refundable if the local business was exempt during the tax year in which it claimed the credit. The credit cannot be used to offset amounts due under the Multnomah County Business Income Tax.
- B. The 100 refundable credits allocated per year will be issued on a first come, first served basis as measured by the date on which the youth certifying agency completes the certification process for any particular business.
- C. A maximum of four (4) credits can be claimed on the tax return based on the taxable income for the tax year in which the credit is claimed. If a consolidated, combined or joint return is required to be filed under Section 7.02.110 B., the consolidated, combined or joint group is limited to a maximum of four (4) credits.
- D. Credit certificates can only be used in the tax year in which they are claimed and cannot be used in any other tax year.

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- E.** For the 2005 tax year, only hours worked after June 30, 2005 may be counted towards the 300 hour minimum requirement.
- F.** Businesses cannot count reimbursable or otherwise subsidized hours (wages) toward the 300 hours.
- G.** A business may claim a credit for the same disconnected youth in successive tax years, provided that the youth works the required minimum 300 hours in each tax year.
- H.** The 300 hour requirement must be completed during the business' fiscal tax year rather than the calendar year.

7.02.820 Obligations of Participating Businesses.

To be eligible to receive a refundable credit and participate in the program, a local business must do each of the following:

- A.** Submit an application to the youth certifying agency that includes an intent to employ an eligible disconnected youth for an average of 25 hours per week and a minimum of 300 hours within four months.
- B.** Contact one or more qualified youth employment organizations for assistance in identifying youth, enrolling a specific youth in one of the qualified youth employment programs in order to pursue eligibility of the youth in the program, and/or seek assistance working with a youth to increase his/her opportunity for employment success.
- C.** Complete employee evaluations or conduct reviews of employees that fall under this program;
- D.** Report employment data for each youth to the participating qualified youth employment organization or the youth certifying agency.

7.02.830 Collection and Remittance of Donations to “Work for Art,” a Program of the Regional Arts & Culture Council.

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Revenue Division is authorized to collect and remit donations from taxfilers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A.** Taxfilers may donate to “Work for Art” by either
 - 1.** paying a sum above what is owed for their City business taxes, or
 - 2.** by designating that all or some of any refund due to them be instead donated to “Work for Art.”

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- B.** To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.
- C.** Once the tax return is filed with the Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Division.

7.02.840 Frivolous Filing.

A \$500.00 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.992(5) are hereby adopted by direct reference.

7.02.850 Hacking.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** Any individual who intentionally accesses the Bureau's computer database without authorization will be fined:
 - 1.** \$500 if the individual acquires any information regarding any business account found in the database;
 - 2.** \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 - 3.** \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.
- B.** Definitions. As used in this Section:
 - 1.** the term "Division's computer database" means computer application(s) used by the Division to calculate and store business and financial data collected under the authority granted by the Business License Law;
 - 2.** the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;

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3. the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

7.02.860 First Year Adjustment Credit.

(Amended by Ordinance Nos. 182427 and 187339, effective October 16, 2015.)

- A. Any taxfiler that was assessed a "First Year Adjustment" fee on a prior tax filing and has been licensed in all consecutive years since is entitled to receive a credit equal to that amount. The credit will be applied towards future City tax filings as a prepayment.
- B. If the amount of the credit cannot be determined from Division records, a rebuttable presumption exists that the credit amount is equal to the amount of the minimum fee payment due for the tax year in which the City assessed the "First Year Adjustment" fee. A taxfiler may present evidence to the Division showing that its First Year Adjust fee was higher than the minimum fee amount due for a particular tax year.
- C. Once the credit amount is determined, the Division will apply 100 percent of that amount towards tax payments due and owing for the 2008 license tax year. If that credit amount exceeds the tax amount due for the 2008 license tax year, the City will issue a refund for the difference or credit the overpayment forward to the next tax year if requested by the taxpayer.

7.02.870 Business Retention Credit for Qualifying Investment Management Firms.

(Added by Ordinance No. 183330, effective December 12, 2009.)

- A. An Investment Management Firm is entitled to a credit against the total amount of its business license tax due. The business retention credit is determined by subtracting from the business license tax due the greater of
 1. \$6,000 times the number of owners, not including limited partners, subject to the Compensation Deductions allowed in Section 7.02.600 or
 2. 30 percent of the total business license tax otherwise due. If the resulting difference is a negative number, the amount of the credit will be zero. Any allowed credit not used in a particular year will not be refunded and will not be carried forward to a succeeding tax year, except as provided in Subsection B.
- B. For purposes of this credit, the "first tax year" would be a tax year in which the Investment Management Firm is doing business in the City of Portland and either
 1. The Investment Management Firm was not doing business in the City of Portland in the prior tax year or

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2. The prior tax year began prior to January 1, 2009.
 - a. In the first tax year, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the third of three consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - b. In the second consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the credit is limited to 50 percent of the amount calculated in Subsection A. The remaining 50 percent shall be deferred and can only be claimed in the fourth of four consecutive tax years (in which the Investment Management Firm is doing business in the City of Portland) starting with the first tax year as defined above.
 - c. In the third consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection a. above.
 - d. In the fourth consecutive tax year that the Investment Management Firm is doing business in the City of Portland, the Investment Management Firm, in addition to the full credit calculated in Subsection A, can claim the 50 percent deferred credit that was calculated in Subsection b. above.
- C. “Investment Management Firm” means a taxpayer that satisfies each of the following requirements during the tax year that the credit is sought:
 1. At least 90 percent of the firm’s gross income for the tax year must consist of fees that are
 - a. Received from Diversified Investing Fund or from persons unrelated to the firm, and
 - b. Determined as a percentage of the value of assets managed by the firm (including payments to the firm from their parties if the payments are credited against or offset such fees in whole or in part).
 2. At least 90 percent of the assets managed by the firm must consist of Qualifying Investment Securities.

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3. A majority of the voting interests in the firm must be owned by persons who received compensation from the firm that is subject to the Owner's Compensation Deduction in Section 7.02.600.
 4. The firm was physically located within the City of Portland boundaries at the end of the tax year.
- D.** The terms "Diversified Investing Fund" and "Qualified Investment Securities" have the meanings as defined by Administrative Rule.
- E.** This credit is available for tax years beginning on or after January 1, 2009.

7.02.880 Youth Employment Credit Programs.

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires otherwise.
1. **"Local Business"** means a business operating in the pursuit of profit, gain or the production of income that:
 - a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
 - b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
 - c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland 's Business License Law and the Multnomah County's Business Income Tax Law.
 2. **"Non-exempt"** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
 3. **"Tax Year"** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.

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4. **“Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.
- B.** Credits issued under a Youth Employment Credit program will have the following features:
1. Credits will be non-refundable;
 2. There will be a maximum number of credits per tax year per program;
 3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
 4. No individual credit will exceed \$500; and
 5. Credit certificates or letters will be provided by the Revenue Division to be attached to the tax return claiming the credit(s).
- C.** Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

7.02.881 Foster Youth Employment Opportunity Credit.

(Added by Ordinance No. 184716; amended by Ordinance No. 187339, effective October 16, 2015.)

- A.** A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B.** For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C.** To qualify for the credit, a business must:
1. Employ a certified foster youth.

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suspend or modify shall be filed as a report with the City Council. The Director's determination shall be effective after the Council has accepted the report.

17.106.040 Regulations.

(Amended by Ordinance No. 188259, effective March 31, 2017.)

- A.** Scope. The deconstruction requirements of this Chapter apply to demolition permit applications under Chapter 24.55 of the City Code for:
1. Primary dwelling structures that were built in 1916 or earlier according to building permit records on file with the Bureau of Development Services, or if no such permit records exist, then County tax assessor information; or
 2. Primary dwelling structures that have been designated as a historic resource subject to the demolition review or 120-day delay provisions of Title 33.
- B.** Requirements. Primary dwelling structures must be deconstructed in accordance with the provisions of this Chapter and associated administrative rules. Salvaged material may be sold, donated, or reused on site.
1. Demolition Permit Application. An application for a demolition permit under Chapter 24.55 for any primary dwelling structure shall not be considered complete unless it is accompanied by a completed Pre-Deconstruction Form provided by the Director.
 2. Certified Deconstruction Contractor. Deconstruction work must be performed by a Certified Deconstruction Contractor. A Certified Deconstruction Contractor shall be assigned to the project throughout the course of deconstruction. Certified Deconstruction Contractors must comply with the requirements of this Chapter and the administrative rules. The Bureau of Planning and Sustainability will maintain on file and available to the public a list of current Certified Deconstruction Contractors.
 3. Site Posting. On the first day of active deconstruction a yard sign provided by the Director when the permit is issued must be posted at the site. The sign must indicate that the structure is being deconstructed and must provide City of Portland contact information for questions or concerns.
 - a. The sign must remain in place throughout the course of deconstruction.
 - b. The sign must be placed on each street frontage of the site.
 - c. Signs must be posted within 5 feet of a street lot line and must be visible to pedestrians and motorists. Signs may not be posted in a

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public right-of-way. Signs are not required along street frontages that are not improved and allow no motor vehicle access.

4. Heavy Machinery. Heavy machinery may be used in deconstruction to assist in the salvage of materials for reuse or to remove material not required to be salvaged for reuse. Heavy machinery may not be used in deconstruction to remove or dismantle components of buildings in ways that render building components unsuitable for salvage. For purposes of this Chapter 17.106, heavy machinery includes, but is not limited to, track hoes, excavators, skid steer loaders, or forklifts.
 5. Documentation. Certified Deconstruction Contractors must maintain receipts for donation, sale, recycling, and disposal of all materials for any deconstruction project. Materials intended for reuse on site must be documented with photographs. The Director may ask that a Certified Deconstruction Contractor produce the receipts or photographs for inspection any time until the demolition permit is approved to be finalized.
 6. Demolition Permit Final. A completed Post-Deconstruction Form and all documentation required in Subsection 5. above must be submitted to the Bureau of Planning and Sustainability before the Bureau of Development Services may approve a demolition permit as finalized.
- C. Additional Regulations. Compliance with Chapter 17.106 does not exempt the demolition of buildings from any other requirements of the City Code, such as in Title 11 Trees, Title 24 Building Regulations, or Title 33 Planning and Zoning.
- D. Exemptions. The following are exempt from the requirements of Chapter 17.106:
1. A building permit to move a structure as provided under Chapter 24.25.
 2. Any primary dwelling structure that has been determined by the Bureau of Development Services to be dangerous and is required to be abated by demolition as provided in Section 29.40.030.
 3. Any primary dwelling structure that the Director has determined is unsuitable for deconstruction because:
 - a. The structure is structurally unsafe or is otherwise hazardous to human life; or
 - b. Most of the material in the structure is not suitable for reuse.
- E. Request for an Exemption. An applicant may request an exemption from the requirements of this Chapter under Subsection 17.106.040 D. by submitting a

sufficiently to remove any hazards to the public. Such period of time is not to exceed 30 days. For regulations on the use of public streets and protection of pedestrians during demolition see Chapter 24.40 of this Title.

24.55.150 Definitions.

(Added by Ordinance No. 187017, effective April 19, 2015.)

- A.** Demolition. Demolition means removal of the entire superstructure down to the subflooring, such that none of the existing superstructure is maintained. Demolition includes removal of all exterior walls. It also includes alteration, abandonment or removal of all of the existing perimeter foundation.
- B.** Major Residential Alteration or Addition. Major alteration or addition means doing any of the following:
 - 1.** adding any new story, including a basement or other below-grade structure. Raising a structure to meet the required headroom in a basement is considered the same as creating a basement,
 - 2.** increasing or replacing 50 percent or more of the exterior wall area on any floor. If the subflooring under an exterior wall is removed, it will be treated as if the wall was removed,
 - 3.** adding total new floor area to the existing structure that exceeds 800 square feet, or
 - 4.** adding an area exceeding 100 percent of the existing foundation footprint area of the structure.
- C.** Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Neighborhood Involvement.
- D.** Subflooring. Subflooring means the bottom-most structural floor laid as a base for a finished floor.
- E.** Superstructure. Superstructure means the part of the building or construction entirely above its foundation or basement.

24.55.200 Residential Demolition Delay - Housing Preservation.

(Amended by Ordinance Nos. 171455, 176955, 187017, 187711 and 188259, effective March 31, 2017.)

- A.** Purpose. The residential demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner's right to develop or redevelop property. The regulations provide

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an opportunity for public notice of impending residential demolitions and coordination of the efforts of various City bureaus. The regulations also encourage seeking alternatives to demolition. The provisions accomplished this through a two part process:

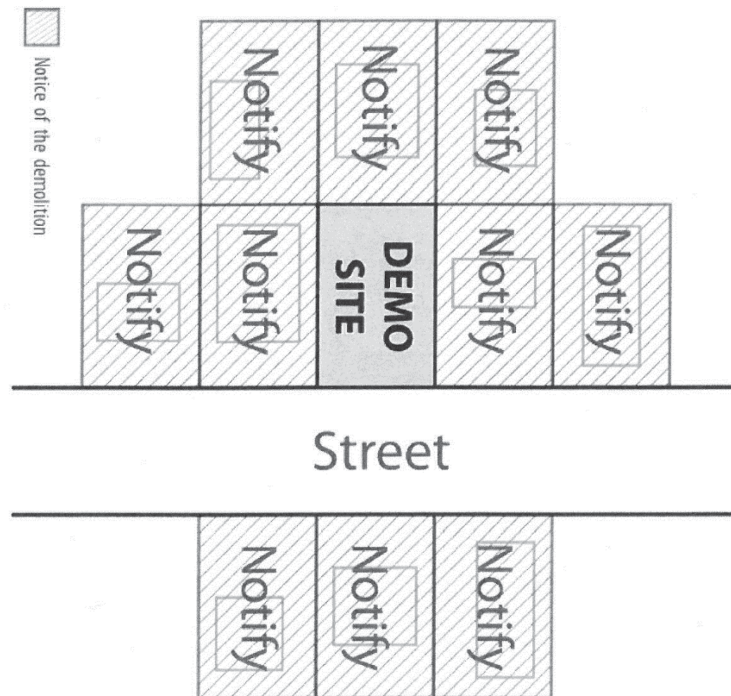
1. a 35 day notice period during which demolition is delayed, and
 2. a possible 60-day extension of the demolition delay period.
- B.** Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.
- C.** Application for building permit for demolition.
1. Signed statement. The application for a building permit for demolition must include a statement signed by the owner(s) of the property. The statement must acknowledge that the owner(s) are aware of the primary uses permitted under the current zoning on the site without a conditional use, zone change, Comprehensive Plan Map amendment, or other land use approval and that such an approval will be required before other uses will be permitted on the site. The statement may be on forms that the Director may make available.
 2. Delay in issuing. The building permit for demolition will not be issued except as provided for in this Section (24.55.200).
- D.** Notification.
1. Mailed notice. Within 5 days of receipt of a complete application for a residential demolition permit, the Bureau of Development Services will mail written notice of the demolition request to all properties within 150 feet of the site to be demolished, to the recognized organization(s) whose boundaries include the site, to the Architectural Heritage Center/Bosco-Milligan Foundation, Inc., and to the Historic Preservation League of Oregon, dba Restore Oregon. A complete application means when the Bureau of Development Services has received a complete permit application, project plans and the intake, review and notice fees have been paid. The notification letter will contain at least the following information.
 - a. Notice that the site has been proposed for demolition,
 - b. The date the application for demolition was received,

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- c.** Notice that there is a demolition delay period of 35 days which may be extended upon request from the recognized organization(s) whose boundaries include the site or an interested party,
 - d.** The contact information of the applicant,
 - e.** The last day that requests for extended delay may be submitted, and
 - f.** The location where more information is available.
- 2.** Posted notice. Five full days before demolition activity commences, the applicant must post door hangers provided by the Bureau of Development Services on the properties abutting and across the street from the site of the demolition. See Figure 200-1. The notice must contain all of the following information.
 - a.** Notice that the site has been proposed for demolition,
 - b.** The demolition permit number,
 - c.** The approximate date demolition activity will commence,
 - d.** Contact information of the agencies that regulate asbestos and lead-based paint,
 - e.** Contact information for the applicant, and
 - f.** The location where more information is available.

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FIGURE 200-1



- E.** 35-day notice period. The building permit for residential demolition will not be issued during the 35-day notice period. The notice period begins on the day the complete permit application is received and all intake fees have been paid. If no written request to extend the demolition delay is received during the 35-day notice period as provided in Subsection 24.55.200 F. below, then the Bureau of Development Services will issue the building permit for demolition.
- F.** Requests for extension of demolition delay period. Requests to extend the demolition delay period may be made as follows:

 - 1.** Who may request. Requests to extend the demolition delay period an additional 60 days may be made by a recognized organization whose boundaries include the site or any other interested party.
 - 2.** How to request. The request to extend the demolition delay period must be made in writing, on forms provided by the Bureau of Development Services. The request must be submitted to the Bureau of Development Services by 4:30 p.m. on the last day of the initial 35-day notice period. The request must be accompanied by an appeal of the demolition permit application submitted to the Bureau for a hearing before the Code Hearings Officer, as provided in Subsection 24.55.200 H. below, along with the appeal fee or a

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waiver of the fee and all documents the appealing party wants in the record to support the appeal. A fee waiver will only be granted to recognized organizations whose boundaries include the site.

- G.** 60-day extension of residential demolition delay period. If a signed request for extension of the demolition delay is received as provided in Subsection 24.55.200 F. above, issuance of the building permit for demolition will be stayed until the Code Hearings Officer has rendered a decision of the appeal filed as provided in Subsection 24.55.200 H. below.
- H.** Appeal of the residential demolition permit application. An interested party may appeal issuance of the demolition permit by completing an appeal application on forms provided by the Bureau. The appeal application must be accompanied by the appeal fee or a fee waiver, along with all documents the appealing party wants in the record to support the appeal. Appeals will be forwarded to the Code Hearings Officer and will be governed by the provisions in Chapter 22.10, unless there is a conflict between Chapter 22.10 and this Section, in which case this Section shall apply. The provisions of Chapter 22.03 shall not apply to appeals under this Section, except for Sections 22.03.050 (Hearing Procedure), 22.03.080 (Evidence), and 22.03.110 (Orders). The appeal may be filed any time within the initial 35-day delay period. The demolition permit may not be issued from the time the Bureau receives an appeal application and the fee or fee waiver, until the Code Hearings Officer has rendered a decision or the 60-day extension period has expired. If the fee waiver is denied, the appealing party must submit the appeal fee to the Bureau within three business days of the denial or the appeal will be rejected. The appealing party has the burden of proving that it is actively pursuing an alternative to demolition and must demonstrate all of the following:
1. The requesting party has contacted the property owner or property owner's representative to request a meeting to discuss alternatives to demolition by sending a letter to the property owner by registered or certified mail, return receipt requested;
 2. The particular property subject to the demolition permit application has significance to the neighborhood. Evidence of the significance may include, but is not limited to, architectural significance, the age and condition of the structure or other factors;
 3. The requesting party has a plan to save the structure; and
 4. The requesting party has a reasonable potential to consummate the plan within 95 days of the date the Bureau accepted the complete demolition permit application by providing a pro-forma budget and either evidence of funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget

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- I.** Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.
- J.** Findings of the Code Hearings Officer. If the Code Hearings Officer finds that the requesting party has demonstrated that it is actively pursuing an alternative to demolition and has met all of the criteria in Subsection 24.55.200 H. (1. – 4.) above, the Code Hearings Officer may grant an extension of the demolition delay for up to 60 additional days from the date the initial 35 day delay period has expired. If the Code Hearings Officer finds that the requesting party has not met its burden, then the Bureau may issue the demolition permit immediately upon receipt of the decision, provided that all other requirements for issuing the demolition permit have been satisfied.
- K.** End of the extension period. If the Code Hearings Officer has not rendered a decision within the 60-day extension period as provided in Subsections 24.55.200 H. and J. above, the building permit for demolition may be issued any time after 60 days have elapsed since the expiration of the initial 35-day notice period. In no event will the permit issuance be delayed more than 95 days from the date the Bureau received the complete demolition permit application if all other requirements for issuing the demolition permit have been satisfied.
- L.** Exceptions to demolition delay.

 - 1.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition that are required by the City to remove structures because of a public hazard, nuisance, or liability. The structure must be subject to a demolition order from the City, or be the subject of enforcement proceedings for demolition and be stipulated by the owner as a dangerous building, in order to be exempt from the demolition delay provisions.
 - 2.** The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition of structures that are subject to the demolition review provisions of Title 33. In this situation, the provisions of Title 33, Planning and Zoning, apply to the application. Any application not subject to the demolition review provisions of Title 33 is subject to the demolition delay provisions of this Section (24.44.200).

24.55.210 Major Residential Alterations and Additions.
(Added by Ordinance No. 187017, effective April 19, 2015.)

TITLE 30 - AFFORDABLE HOUSING

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TITLE 30 - AFFORDABLE HOUSING

(Title added by Ordinance No. 172844, effective November 4, 1998)

**TITLE 30
AFFORDABLE HOUSING**

**CHAPTER 30.01 - AFFORDABLE HOUSING
PRESERVATION AND PORTLAND RENTER
PROTECTIONS**

(Chapter amended by Ordinance No. 187380,
effective November 13, 2015.)

Sections:

- 30.01.010 Policy.
- 30.01.020 Intent.
- 30.01.030 Definitions.
- 30.01.040 Title 30.01 Responsibilities.
- 30.01.050 Federal Preservation Projects - City Notice and Preservation Opportunities.
- 30.01.060 Federal Preservation Projects - Tenant Provisions.
- 30.01.070 Federal Preservation Projects - Civil Fines.
- 30.01.080 Local Preservation Projects - Tenant and City Notice Provisions.
- 30.01.085 Portland Renter Additional Protections.
- 30.01.090 City Subsidy Projects - Long-Term Affordability Requirements.
- 30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.
- 30.01.100 Compliance and Enforcement.
- 30.01.110 No Restriction of Powers of Eminent Domain; Severability.
- 30.01.120 Inclusionary Housing.

30.01.010 Policy.

(Amended by Ordinance No. 187380, effective November 13, 2015.) It is the policy of the City of Portland that all Portlanders, regardless of income level, family composition, race, ethnicity or physical ability, have reasonable certainty in their housing, whether publicly assisted or on the private market. Consequently, publicly assisted rental housing affordable to low and moderate income persons and households should be preserved as a long-term resource to the maximum extent practicable, and the tenants of such properties should receive protections to facilitate securing new housing should the affordable units be converted to market rate units or otherwise be lost as a resource for low and moderate income housing. Likewise, Portland renters in unregulated housing on the private market, need additional protections to ensure that there is adequate time to find alternative housing in the case of a no cause eviction and adequate time to budget for an increase in rent.

30.01.020 Intent.

(Amended by Ordinance No. 187380, effective November 13, 2015.) The intent of this Title is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the City and tenants when transitions from current assistance programs and/or affordable housing uses are planned; providing purchase opportunities for the City to attempt to preserve the affordable housing while respecting ownership interests of building owners; providing tenant relocation

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assistance when the affordable housing is converted; and, ensuring long term affordability in future projects that the City assists with public financing designed to create or preserve affordable housing; and ensuring that all Portland renters, have additional protections to ensure more certainty in their housing security.

30.01.030 Definitions.

(Amended by Ordinance Nos. 186028, 187380 and 188163, effective February 1, 2017.)

- A. **“Administrative Rules”** means the program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth program requirements, processes, and procedures, and are filed through the City’s publically available Portland Policy Documents (PPD).
- B. **“Affordable housing.”** The term “affordable housing”, “affordable rental housing” or “housing affordable to rental households” means that the rent is structured so that the targeted tenant population pays no more than 30 percent of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to 80 percent of MFI.
- C. **“Associated Housing Costs.”** include, but are not limited to, fees or utility or service charges, means the compensation or fees paid or charged, usually periodically, for the use of any property, land, buildings, or equipment. For purposes of this Chapter, housing costs include the basic rent charge and any periodic or monthly fees for other services paid to the Landlord by the Tenant, but do not include utility charges that are based on usage and that the Tenant has agreed in the Rental Agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the Rental Agreement.
- D. **“City Subsidy.”** Locally controlled public funds administered by PDC, PHB, or other City bureau or agency, allocated for the purpose of creating or preserving affordable rental housing to households below 80 percent of MFI. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.
- E. **“City Subsidy Projects.”** Privately owned properties of five or more units which receive a City Subsidy after the effective date of Title 30.01 through programs designed to create or preserve rental housing affordable at or below 80 percent of MFI.
- F. **“Commercial Market Compatible Offer.”** A Fair Market Value purchase offer made by the City or its designee which is consistent with the terms and conditions which would be made by a buyer on the open market such that a seller negotiating with the City on such terms would not experience any significant disadvantage as compared to a market rate transaction with a private party.

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- G. “Fair Market Value.”** The amount of money in cash that real property would bring in the open market if it were offered for sale by one who desired, but was not obligated to sell, and was bought by one willing but not obliged to buy. It is the actual value of the property on the date when a City offer pursuant to Title 30.01.050 is made. As may be further refined by PHB through its Administrative Procedures developed in reference to the Uniform Standards of Professional Appraisal Practice, the Oregon Uniform Trial Instructions, and relevant case law, Fair Market Value is based on the best and highest use of the property, which may be greater than the use being made of the property by the current owner. However, Fair Market Value does not include speculative value, or possible value based on future expenditures and improvements, or potential changes in applicable zoning regulations or laws, which are not reasonably probable. Fair Market Value includes assessment of environmental, structural or mechanical information derived from inspections or other due diligence activities.
- H. “Federal Preservation Projects.”** Properties having project-based rental assistance contracts for some or all of the units (such as Section 8 and Project Rental Assistance Contracts) including those developed under a variety of HUD mortgage assistance and interest rate reduction programs. Federal preservation projects include properties with loans, contracts, or insurance under the following federal subsidy programs: section 221(d)(4) with project-based Section 8; Section 202; Section 236(J)(1); Section 221(D)(3) BMIR; Section 221(D)(3) MIR; Section 811; Project based Section 8 contracts administered through HUD, Oregon Housing and Community Services, or the Housing Authority of Portland; Project Rental Assistance Contracts (PRAC); LIHPRHA capital grant program; and Section 241(f) preservation grant. An updated list of all known Federal Preservation Projects will be maintained and available upon request to the public.
- I. “HUD.”** The United States Department of Housing and Urban Development
- J. “Involuntary Displacement.”** Tenants of Federal Preservation Projects are considered to be involuntarily displaced if:
1. They are served a notice to vacate the property for reasons other than just cause as defined herein; or
 2. They are not offered a one year lease under their tenant based voucher by the property owner; or
 3. They are offered a one year lease under their tenant based voucher, but are required to pay as rent and utilities an amount greater than the tenant contribution to rent (and utilities) in effect under the project-based Section 8 contract, and they then choose to move from the property rather than enter into a lease under the voucher. This form of displacement is referred to as “economic displacement.”

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- K. “Just Cause Eviction.”** Evictions for serious or repeated violations of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause.
- L. “Local Preservation Projects.”** Properties with 10 or more rental units which received financial assistance (from the programs listed below), to create or preserve housing serving households below 80 percent of MFI since January 1, 1988 and through the effective date of Title 30.01, which have affordability restrictions that are still in force as of the effective date of Title 30.01. Financial assistance programs include subsidies from the City of Portland through the Portland Development Commission (Rental Housing Development Loan Program, Investor Rehabilitation Loan Program, Rental Rehabilitation Loan Program, or Downtown Housing Preservation Program), and/or from the State of Oregon Housing and Community Services Department (Housing Development Grant Program, Oregon Affordable Housing Tax Credit Program, and the former Oregon Lenders Tax Credit Program, Risk Sharing Bond program, Elderly and Disabled Bond Program), and/or which have received bond financing issued by the Housing Authority of Portland or the Portland Development Commission. An updated list of all known Local Preservation Projects will be maintained and available upon request to the public.
- M. “Low Income.”** Low income individuals, households or tenants are those with a gross household income below 50 percent of MFI.
- N. “MFI.”** Median family income for the Portland Metropolitan Statistical Area as defined by HUD as adjusted for inflation and published periodically.
- O. “Moderate Income.”** Moderate income individuals, households or tenants are those with a gross household income below 80 percent of MFI.
- P. “Opt Out.”** An owner’s non-renewal of an available project-based Section 8 contract in a Federal Preservation Project. Owners may consider “opting out” when they contemplate conversion to open market rental housing, other housing or commercial uses, or a sale of the property.
- Q. “PHB.”** The Portland Housing Bureau.
- R. “PDC.”** The Portland Development Commission
- S. “Preservation Process.”** The requirements contained in 30.01.050 - 30.01.070 for Federal Preservation Projects and in 30.01.080 for Local Preservation Projects respectively.
- T. “Qualifying Household.”** A household legally residing in a Federal Preservation Project with a gross household income at or below 50 percent of MFI.

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- U. **“Receiving Site”** means a new or existing housing development with transferred Inclusionary Housing requirements from a Sending Site.
- V. **“Regulatory Agreement”** means a recorded agreement between the owner and PHB stating the approval and compliance criteria of a PHB program.
- W. **“Residential Landlord and Tenant Act”** or **“Act.”** ORS Chapter 90.
- X. **“Sending Site”** means a new development project which is subject to Inclusionary Housing requirements and is opting to provide affordable units off-site.

30.01.040 Title 30.01 Responsibilities.

(Amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.) PHB will have primary responsibility for implementation of Title 30.01. This responsibility will include the development and administration of operating procedures, and taking any and all City actions referenced herein as may be necessary for implementation of the requirements of this Title. PDC will work with PHB to implement property acquisition responsibilities described in this Title. PDC is also expected to develop strategies to implement the 60-year affordability requirements in 30.01.090.

30.01.050 Federal Preservation Projects - City Notice and Preservation Opportunities.

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

- A. Owners of Federal Preservation Projects must provide the City and each building tenant with a one year’s notice of a pending HUD Section 8 contract expiration. In order to facilitate the owner’s knowledge of the City’s interest in notification, PHB shall provide written confirmation of the City’s interest in the property to each Section 8 property within the City of which PHB is aware.
- B. Owners of Federal Preservation Projects who have decided to Opt Out must provide to the City a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:
 - 1. whether the owner intends to withdraw the property from the Section 8 program;
 - 2. whether the owner intends to convert the participating property to a nonparticipating use; and
 - 3. whether the owner is involved in negotiations with HUD or the Housing and Community Services Department regarding an extension of an expiring contract.

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- C. Owners of Federal Preservation Projects who have decided to Opt Out must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD or the State of Oregon Housing and Community Services Department. These inspections are designed to facilitate the City's ability to assess the Fair Market Value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a Section 8 agreement with HUD and other pertinent information.
- D. To the extent allowed by HUD, owners of Federal Preservation Projects must maintain an available HUD Section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced under ORS Chapter 35.
- E. Owners of Federal Preservation Projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the City or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this Chapter as well as any condemnation proceeding commenced under ORS Chapter 35.
- F. In addition to any other times, during the notice periods identified in this Chapter, the City may pursue preservation of the Federal Preservation Project through negotiation for purchase or through condemnation under ORS Chapter 35.

30.01.060 Federal Preservation Projects - Tenant Provisions.

(Replaced by Ordinance No. 174180; amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

- A. Owners of Federal Preservation Projects who have decided to Opt Out must provide to each affected building tenant a notice of 210 days of intent to do so if the owner is opting out of a long-term contract, and 150 days if the owner is opting out of a one-year extension to a long-term contract. The notice shall specify:
 - 1. whether the owner intends to withdraw the property from the Section 8 program;
 - 2. whether the owner intends to convert the participating property to a nonparticipating use; and
 - 3. whether the owner is involved in negotiations with HUD or the State of Oregon Housing and Community Services Department regarding an extension of an expiring contract
- B. Owners of Federal Preservation Projects who have decided to Opt Out may not disturb any tenancy other than for cause defined in the contract, for a period of 180

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days after expiration of the contract, if the City has paid or arranged to pay to the owner on the first day of each month, the monthly subsidy that the owner was receiving under the contract.

- C. PHB shall identify and make available adequate financial resources for tenant relocation assistance for all tenants who experience involuntary displacement from Federal Preservation Properties. PHB shall request voluntary contributions to a tenant relocation fund from owners of Federal Preservation Projects who have decided to Opt Out.

30.01.070 Federal Preservation Projects - Civil Fines.

(Replaced by Ordinance No.174180; amended by Ordinance No. 186028, effective May 15, 2013.)

- A. An owner who fails to comply with any of the requirements specified in PCC 30.01.050 A.-E., tenant notice requirements in 30.01.060 A., or PHB procedures implementing those specified provisions of this Chapter, shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based Section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the City. If the civil fine is not received within the timeframes specified in the Administrative Procedures developed by PHB, the City may commence enforcement proceedings.
- B. Any civil fines received shall be used only for creating replacement housing serving households at or below 50 percent MFI.

30.01.080 Local Preservation Projects - Tenant and City Notice Provisions.

(Amended by Ordinance No. 186028, effective May 15, 2013.)

- A. When the owner of a Local Preservation Project takes action which will make the affordable housing no longer affordable, whether the affordability requirements which were established under prior agreement with the City, PDC or State have expired or are still in effect, the owner must provide a notice of 90 days to the City. The notice shall meet standards developed by PHB. During the 90-day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties. Within this period, the City or its designee may make an offer to purchase or attempt to coordinate a purchase by an owner committed to maintaining affordability.
- B. Owners of Local Preservation Projects who have decided to take action described in 30.01.080 A., must provide a notice of 90 days to tenants. This shall be in addition to the City notice to be provided to the City under 30.01.080 A. During this notice period the Owner may not initiate a no-cause eviction. The notice must meet standards developed by PHB.

30.01.085 Portland Renter Additional Protections.

(Added by Ordinance No. 187380; amended by Ordinance No. 188219, effective February 2, 2017.)

- A.** In addition to the protections set forth in the Residential Landlord and Tenant Act, the following additional protections apply to Tenants that have a Rental Agreement for a Dwelling Unit covered by the Act. For purposes of this chapter, capitalized terms have the meaning set forth in the Residential Landlord and Tenant Act.
- B.** A Landlord may terminate a Rental Agreement without a cause specified in the Act only by delivering a written notice of termination (the “Termination Notice”) to the Tenant of (a) not less than 90 days before the termination date designated in that notice as calculated under the Act; or (b) the time period designated in the Rental Agreement, whichever is longer. Not less than 45 days prior to the termination date provided in the Termination Notice, a Landlord shall pay to the Tenant, as relocation assistance, a payment (“Relocation Assistance”) in the amount that follows: \$2,900 for a studio or single room occupancy (“SRO”) Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger Dwelling Unit. The requirements of this Subsection do not apply to Rental Agreements for week-to-week tenancies, or to Landlord who rents out or leases out only one Dwelling Unit in the City of Portland, or to a Landlord who temporarily rents out the Landlord’s principal residence during the Landlord’s absence of not more than 3 years, or to Tenants that occupy the same Dwelling Unit as the Landlord. For purposes of the exception provided in this Subsection, “Dwelling Unit” is defined by PCC 33.910, and not by ORS 90.100. For purposes of this Subsection, a Landlord that declines to renew or replace an expiring fixed-term lease on substantially the same terms except for the amount of Rent or Associated Housing Costs terminates the Rental Agreement and is subject to the provisions of this Subsection.
- C.** A Landlord may not increase a Tenant's Rent or Associated Housing Costs by 5 percent or more over a 12 month period unless the Landlord gives notice in writing (the “Increase Notice”) to each affected Tenant: (a) at least 90 days prior to the effective date of the rent increase; or (b) the time period designated in the Rental Agreement, whichever is longer. Such notice must specify the amount of the increase, the amount of the new Rent or Associated Housing Costs and the date, as calculated under the Act, when the increase becomes effective. If, within 14 days after a Tenant receives an Increase Notice indicating a Rent increase of 10 percent or more within a 12 month period and a Tenant provides written notice to the Landlord of the Tenant’s intent to terminate the Rental Agreement (the “Tenant’s Notice”), then, within 14 days of receiving the Tenant’s Notice, the Landlord shall pay to the Tenant Relocation Assistance in the amount that follows: \$2,900 for a studio or SRO Dwelling Unit, \$3,300 for a one-bedroom Dwelling Unit, \$4,200 for a two-bedroom Dwelling Unit and \$4,500 for a three-bedroom or larger dwelling unit. For purposes of this Subsection, a Landlord that conditions the renewal or

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replacement of an expiring lease on the Tenant's agreement to pay an increase in the Rent or Associated Housing Costs increases the Tenant's Rent, and is subject to the provisions of this Subsection. The requirements of this Subsection do not apply to Rental Agreements for week-to-week tenancies, or to a Landlord who rents out only one Dwelling Unit in the City of Portland, or to a Landlord who temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years, or to Tenants that occupy the same Dwelling Unit, as defined in Subsection B. of this Section, as the Landlord.

- D.** A Landlord that fails to comply with any of the requirements set forth in this Section 30.01.085 shall be liable to the Tenant for an amount up to 3 months Rent as well as actual damages, Relocation Assistance, reasonable attorney fees and costs (collectively, "Damages"). Any Tenant claiming to be aggrieved by a Landlord's noncompliance with the foregoing has a cause of action in any court of competent jurisdiction for Damages and such other remedies as may be appropriate.
- E.** The provisions of this Section 30.01.085 concerning Relocation Assistance shall be in effect for the duration of the Housing Emergency declared by Council on October 7, 2015 by Ordinance 187371 and extended for a period of 1 year to October 6, 2017 by Ordinance 187973, and shall apply to all notices of termination and to all notices of increases of a Tenant's Rent or Associated Housing Costs pending as of the effective date of those provisions, subject to the following provisions:

 - 1.** If, as of the effective date of the Relocation Assistance provisions of this Section, a Landlord has given notice of termination, but the termination has not yet occurred, the Landlord, within 30 days of the effective date of these provisions, either shall notify the Tenant in writing that the Landlord has rescinded the notice of termination, or shall pay the Relocation Assistance provided for in Subsection B. of this Section.
 - 2.** If, as of the effective date of the Relocation Assistance provisions of this Section, a Landlord has given notice of an increase of a Tenant's Rent or Associated Housing Costs that triggers the obligation to pay Relocation Assistance under Subsection C. of this Section, the Tenant shall have the right, within 14 days of the effective date, to notify the Landlord that the Tenant is terminating the Rental Agreement, and the Landlord shall have 14 days thereafter within which to give written notice to the Tenant either that the Landlord has rescinded the increase or has reduced it below the level that triggers the obligation to pay Relocation Assistance, or, in the alternative, to pay the Relocation Assistance.

30.01.090 City Subsidy Projects - Long-Term Affordability Requirements.
(Amended by Ordinance Nos. 186028 and 187380, effective November 13, 2015.)

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- A. City Subsidy Projects that in the future request and receive a City Subsidy from PDC, PHB or other City bureau or agency for the purpose of creating or preserving rental housing affordable to households below 80 percent of MFI, will be subject to a minimum of 60 year affordability contract requirements developed by PHB consistent with the implementing charge in Subsection 30.01.090 B.
- B. All City Bureaus and agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the City to negotiate and confer affordable housing subsidies, PHB will develop implementing strategies consistent with the 60 year affordability principles contained in this section, the Administrative Procedures Implementing Title 30.01 and the approved 1998/99 Consolidated Plan, Principle III (Ordinance No. 172259).

30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.

(Added by Ordinance No. 183448; Amended by Ordinance Nos. 186712, 186744, 187380 and 187975, effective September 7, 2016.)

- A. The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B. The City will exempt qualified affordable housing developments from paying all or part of system development charges required by Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. Where new development consists of only part of one or more of the uses described in this Section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.
- C. The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities.

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- D.** To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from PHB that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by PHB.
- E.** The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by PHB in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.
- F.** Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges based on the type of housing provided:
 - 1.** Rental Units.
 - a.** For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.
 - b.** The units receiving an exemption shall be affordable to households earning 60 percent or less of MFI at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, except as provided for below. Such units shall remain affordable for a period of 60 years.
 - c.** Effective July 1, 2014, developments of new buildings in Old Town/Chinatown shall be eligible for exemption subject to the following conditions:
 - (1)** Units must be located in the Old Town/Chinatown Action Plan Focus Area;
 - (2)** Financial need must be verified through project pro forma underwriting conducted by the PDC;
 - (3)** All units shall remain affordable for a period of not less than 10 years, to persons or households whose incomes are 100 percent or less of MFI, as adjusted by household size and as determined by HUD for the Portland Metropolitan Area, and for not less than 5 years thereafter shall continue to remain

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affordable to persons or households whose incomes are 120 percent or less of MFI, as so described; and

- (4)** The exemption granted by this Subsection shall not be available to developments for which a building permit application is filed on or after July 1, 2019, or after permit applications have been filed for development of 500 qualifying units, in the aggregate, whichever occurs first.

2. Owner-Occupied Units.

- a.** For the purposes of this Section, “Affordable” means that ownership units are sold to persons or households whose incomes are at or below 100 percent of MFI for a family of four as determined annually for the Portland Metropolitan Area by HUD, which income may be adjusted upward for households with more than four persons; and
- b.** The ownership units sell at or below the price limit as provided by Subsection 3.102.090 D.

3. Mass Shelters.

- a.** For the purposes of this Section, “affordable” means that shelter is provided on a daily basis without a fee.
- b.** A mass shelter is a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or non-profit agency to provide shelter. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.
- c.** Mass shelters shall provide shelter for a minimum of 10 years.

- G.** Pursuant to Section 30.01.040, the PHB is responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section. PHB may adopt, amend and appeal administrative rules, establish procedures, and prepare forms for implementation, administration and compliance monitoring consistent with the provisions of this Section.

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In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, or the owner of the property wants to remove the affordability covenants of Subsection 30.01.095 F., the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges based on rates in effect on the date of the submittal of a complete building permit application, plus accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption calculated with the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140, and a processing fee of \$250 due to each City bureau exempting system development charges and to PHB as the administrator. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

30.01.100 Compliance and Enforcement.

(Amended by Ordinance No. 186028, effective May 15, 2013.)

- A. PHB shall develop and implement procedures to enforce the provisions of this code. Such procedures should include, where feasible, record notice of the applicability of this code to affected properties, filing a lien to enforce the provisions of this code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this code.
- B. The City Attorney's Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body.

30.01.110 No Restriction of Powers of Eminent Domain; Severability.

- A. This Chapter shall not be construed to restrict the City's existing authority to exercise powers of eminent domain through condemnation as outlined in state law.
- B. If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

30.01.120 Inclusionary Housing.

(Added by Ordinance No. 188163, effective February 1, 2017.)

- A. **Purpose Statement.** The purposes of the Inclusionary Housing ("IH") Program are:

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1. Increase the number of units available to households earning 80 percent or less of MFI, with an emphasis on households earning 60 percent or less of MFI;
2. Responsibly allocate resources to increase housing opportunities for families and individuals facing the greatest disparities;
3. Create affordable housing options in high opportunity neighborhoods, those with superior access to quality schools, services, amenities and transportation; and
4. Promote a wide range of affordable housing options with regard to size, amenities and location.

B. Administration.

1. PHB will certify whether the applicant's proposed development meets the standards and any administrative requirements set forth in this Section.
2. PHB may adopt, amend and repeal Administrative Rules and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Section. The Director of PHB, or a designee, has authority to make changes to the Administrative Rules as is necessary to meet current program requirements. PHB Administrative Rules will set forth clear and objective criteria for determining whether a development meets the minimum standard of affordable units ("IH Units").
3. PHB will review the Inclusionary Housing outcomes periodically in order to determine if the IH Program options and incentives in Subsection 30.01.120 C. are consistent with City goals and market conditions.

C. Financial Incentives. The following financial incentives are provided for the respective options of IH Program compliance:

1. When the proposed development will include 20 percent of the units or total number of bedrooms configured into IH Units at or below 80 percent MFI, or for developments outside of the Central City Plan District, 15 percent of the units or total bedrooms configured into IH units at or below 80 percent MFI for applications filed on or before December 31, 2018:
 - a. Ten-year property tax exemption in accordance with City Code Chapter 3.103 for the IH Units. If the development is in the Central City Plan district, as designated in City Code Chapter 33.510, and has maximum base 5:1 FAR or greater, before including density

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3. Owners of property subject to the IH Program are required to sign a Regulatory Agreement to be recorded with the property where the IH Units are located;
 4. The owner or a representative shall submit annual documentation of tenant income and rents for the IH Units to PHB;
 5. The City may inspect the IH Units for fire, life and safety hazards and for compliance with IH Program requirements and may inspect files documenting tenant income and rents of the IH Units; and
 6. Subsequent failure to meet the requirements of the IH Program previously determined at the time the permit is reviewed will result in a penalty equal to the amount of the current fee-in-lieu calculation plus accrued interest, and could result in legal action if unpaid.
 7. When the IH Units are configured based on a percentage of the total number of bedrooms within the proposed development, the IH Units must be provided in 2 or more bedrooms per unit.
- E.** To the extent that a financial incentive as set forth in this Section is not available to a development that otherwise complies with City Code Chapter 33.245, the IH Program will not be applicable to the development. If the IH Program is not applicable to the development, PHB will provide a letter certifying that the development is not subject to any IH Program requirements.
- F. Fee-In-Lieu.** When the applicant elects the fee-in-lieu option, they fee-in-lieu per gross square foot of the proposed development is:

- a.** For developments in zones outside the Central City Plan District

| Zone/FAR | Fee per GSF on or before December 31, 2018 |
|---|---|
| CN1, CO1, CO2, CM, CS, CG, CX plus EG1, EG2, EX and R3, R2, R1, RH and RX zones | \$19.50 |

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| Zone/FAR | Fee per GSF after December 31, 2018 |
|--------------------|--|
| CM1 at Base FAR | \$23.83 |
| CM1 with Bonus FAR | \$25.79 |
| CM2 at Base FAR | \$25.79 |
| CM2 with Bonus FAR | \$26.50 |
| CM3 at Base FAR | \$26.03 |
| CM3 with Bonus FAR | \$28.58 |

b. For developments in zones within the Central City Plan District

| Zone/FAR | Fee per GSF |
|-----------------------------|--------------------|
| 3:1/4:1 FAR | \$27.39 |
| 3:1/4:1 Base with Bonus FAR | \$28.57 |
| 5:1/6:1 FAR | \$28.57 |
| 5:1/6:1 Base with Bonus FAR | \$28.99 |
| 8:1 FAR | \$28.99 |
| 8:1 Base with Bonus FAR | \$29.81 |
| 9:1 FAR | \$29.81 |
| 9:1 Base with Bonus FAR | \$29.42 |
| 12:1 FAR | \$29.42 |
| 12:1 Base with Bonus FAR | \$29.85 |
| 15:1 FAR | \$27.39 |
| 15:1 Base with Bonus FAR | \$28.57 |

c. For Bonus FAR in non-residential developments

| Fee Schedule for Bonus FAR for non-residential occupancy/use |
|---|
| \$24 per square foot of Bonus FAR |