

Resolution No. 37287

Ensure tax fairness in the sharing economy and provide for administrative subpoena power to the Revenue Division. (Resolution)

WHEREAS, the City of Portland has a duty to ensure that all businesses in Portland operate safely and legally, and pay their fair share of taxes; and

WHEREAS, key sections of the City Code and the City Charter were written in a time before the “sharing economy” existed; and

WHEREAS, private companies have challenged the City’s ability to apply Code and Charter language to new and emerging industries; and

WHEREAS, the City Council continually works to update the Code in response to emerging industries and technologies; and

WHEREAS, on December 21, 2016, the City Council adopted Ordinance 188170 which updated Chapter 6.04 of Portland City Code; and

WHEREAS, much of the Code was written many years ago and did not adequately address Council’s intent that certain definitions and other language capture short-term rental operations in the “sharing economy” – such as HomeAway, Airbnb and others – for regulatory and taxation purposes; and

WHEREAS, Ordinance 188170 previously defined Operators under Chapter 6.04 of the Code to include online businesses, such as HomeAway and Airbnb, which (1) provide reservation and payment services through an online platform and allow a property owner to advertise short-term rentals through a website provided by the company’s hosting platform, and (2) provide a means for potential users to arrange transient lodging occupancy and payment, whether the user pays directly to the property owner or to the online business; and

WHEREAS, the City Charter needed to be updated relative to these emerging industries; and

WHEREAS, HomeAway has filed multiple lawsuits against the City of Portland, challenging the City’s authority to enforce basic safety requirements and to require it to pay its fair share of the Transient Lodging Tax; and

WHEREAS, HomeAway has allowed listings to be posted on its site without proof of health and safety inspections or business registration; and

WHEREAS, the City believes that HomeAway either collects, or has the ability to collect, the Transient Lodging Tax from customers that reserve units through its website; and

WHEREAS, HomeAway also has refused to disclose any information about its listings, including names or addresses of its hosts, unless and until it is required to do so as part of an administrative subpoena; and

WHEREAS, in February of 2017, the Portland City Council referred a City Charter change to the voters. The amendment authorized the City Council to interpret the term "Operator" and other Code provisions in order to impose Transient Lodgings Taxes on online businesses like HomeAway and Airbnb; and

WHEREAS, on May 16, 2017, Portlanders approved Measure 26-194 with approximately 62% of the vote; and

WHEREAS, Measure 26-194 gives the City Council authority to interpret the terms defined in City Code "as the Council may deem necessary and appropriate" in light of new and changing technology.

NOW, THEREFORE, BE IT RESOLVED, the City Council hereby directs the City Attorney to draft amendments to provide the Director of the Revenue Division administrative subpoena authority necessary to ensure all short-term rentals in the City of Portland are in compliance with applicable laws and regulations; and


BE IT FURTHER RESOLVED, the City of Portland restates and reaffirms that, as provided in Ordinance 188170, City Code Chapter 6.04 defines "Operators" to include online short-term rental businesses such as HomeAway and Airbnb; and

BE IT FURTHER RESOLVED, the City of Portland restates and reaffirms that it has broad authority to collect the Transient Lodging Tax from all "Operators" in the short-term rental industry, including HomeAway, AirBnB, and any current or future businesses in the "sharing economy."

Adopted by the Council: MAY 24 2017

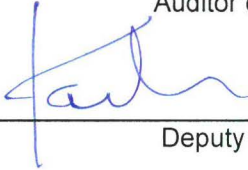
Mayor Wheeler
Commissioner Fish
Prepared by: T. Lannom,
K. McGair, J. Dunphy, S. Schmanski
Date Prepared: May 16, 2017

Mary Hull Caballero
Auditor of the City of Portland

By 
Deputy

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Agenda No. **37287**
RESOLUTION NO.
Title

Ensure tax fairness in the sharing economy and delegate subpoena power to the Revenue Division.
(Resolution)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Ted Wheeler and Nick Fish</p> <p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - <u>Wheeler</u></p> <p>Position 1/Utilities - <u>Fritz</u></p> <p>Position 2/Works - <u>Fish</u></p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p> <p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Revenue & Financial Svcs Bureau Head: Ken Rust, CFO</p> <p>Revenue Division: Thomas Lannom</p> <p>Prepared by: Jamie Dunphy Date Prepared: 05/16/2017</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter</p> <p>Council Meeting Date 05/24/2017</p>	<p>CLERK USE: DATE FILED <u>MAY 16 2017</u></p> <p style="text-align: right;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p> <p>ACTION TAKEN:</p>
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<p style="text-align: center;">AGENDA</p> <p>TIME CERTAIN <input type="checkbox"/> Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p> <p>CONSENT <input type="checkbox"/></p> <p>REGULAR <input checked="" type="checkbox"/></p>	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><th style="width: 30%;">FOUR-FIFTHS AGENDA</th><th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th></tr><tr><th></th><th style="width: 20%;">YEAS</th><th style="width: 20%;">NAYS</th></tr><tr><td>1. Fritz</td><td style="text-align: center;">✓</td><td></td></tr><tr><td>2. Fish</td><td style="text-align: center;">✓</td><td></td></tr><tr><td>3. Saltzman</td><td style="text-align: center;">✓</td><td></td></tr><tr><td>4. Eudaly</td><td style="text-align: center;">✓</td><td></td></tr><tr><td>Wheeler</td><td style="text-align: center;">✓</td><td></td></tr></table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz	✓		2. Fish	✓		3. Saltzman	✓		4. Eudaly	✓		Wheeler	✓	
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