

EXHIBIT A**6.04.040 Operator's Duties.**

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

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 or upon issuance of a subpoena in accordance with this Chapter, 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.

6.04.130 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. Subpoenas. For purposes of determining compliance with this Chapter, the Director may issue subpoenas to any Operator or Person for the production of all information, documents, reports, records, accounts, papers, and other data and documentary evidence, in whatever format or however stored, necessary to ensure compliance with this Chapter.

1. It is unlawful for any Operator or Person so subpoenaed to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter at issue or to allow records to be examined, unless the Operator or Person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objections or raised that specific defense in seeking the order to quash.
2. If an Operator or Person subpoenaed as provided fails to appear or produce any records as required, or whenever any Operator or Person so summoned refuses to answer any question pertinent to the subject under inquiry, the City Attorney may apply to any court of competent jurisdiction for an order to the Operator or Person to attend and testify, or otherwise comply with the subpoena.
3. The City Attorney's application to the court may seek an order requiring the Operator or Person against whom the subpoena is directed to comply with the subpoena within 3 days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.

D. Should the City institute prevail in any legal proceedings in any state or federal court to collect the taxes, penalties and interest assessed in accordance with this Chapter, or to enforce a subpoena, the City shall be entitled to its reasonable costs and attorneys' fees.

D E. 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-F. 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.