

## **Chapter 6.09 Nightly Fee on Short-Term Rentals**

### **PCC 6.09.005 Purpose**

All Booking Agents and Transient Lodging Intermediaries that facilitate the rental of Short-Term Rentals will be charged a fee each night a Guest rents a room. This fee is separate from the transient lodging tax authorized by the Portland City Charter and Chapter 6.04. The revenues from this fee will be used to fund affordable housing and homelessness initiatives in the Portland area.

### **PCC 6.09.010 Definitions**

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. "Booking Agent" has the same meaning as the term defined in Section 6.04.010.
- B. "Division" means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. "Division Director" and "Director" means the director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services or designee;
- D. "Guest" means a person who rents one or more rooms in a Short-Term Rental on a temporary basis, for any number of days. Any person who signs a monthly rental or fixed-term lease agreement is not considered to be a Guest, but is considered a tenant exercising Long-Term Occupancy.
- E. "Host" means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary;
- F. "Hotel", for purposes of Chapter 6.09 only, means a commercially zoned structure that was built or remodeled to operate as a hotel or motel for transient lodging purposes.
- G. "Long-Term Occupancy" means a rental agreement between a property owner and a tenant with the intention of the rental period being an extended period of time, often months or years, governed by a verbal or written monthly rental agreement or a lease. Long-Term Occupancy established a person's primary residence for voting and income tax purposes.
- H. "Transient Lodging Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Short-Term Rental or portion thereof. Transient Lodging Occupancy does not establish or change a person's primary residence
- I. "Online Booking Site" means a hosting or other online website that provides a means through which a Host may offer to rent a Short-Term Rental unit for transient lodging or other short-term occupancy;
- J. "Person" has the same meaning as defined in Section 6.04.010.
- K. "Rent" has the same meaning as defined in Section 6.04.010.
- L. "Room" has the same meaning as defined in Section 6.04.010.

- M. "Short-Term Rental" means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- N. "Transient Lodgings Intermediary" means any Transient Lodging Intermediary, Transient Lodging Tax Collector or Transient Lodging Provider as defined in ORS 320.300

### **6.09.020 Fee Imposed**

For the privilege of facilitating a Transient Lodging Occupancy of a Short-Term Rental within the City of Portland, a Booking Agent or Transient Lodging Intermediary shall pay to the City a fee of \$4 per night for each Transient Lodging Occupancy. This fee is due each night on any occupancy between one and 30 nights at a Short-Term Rental Accommodation. If the occupancy exceeds 30 continuous days, the fee is no longer due for any of the nights, and if collected, must be refunded to the Guest. This fee may be passed onto the Guest if the receipt provided to the Guest separately states this nightly fee, identifying the fee as "Portland Housing and Homelessness Fee". This fee is not assessed on Booking Agents or Transient Lodging Intermediaries who only facilitate the rental of rooms of a Hotel defined in Chapter 6.09. Additionally, Booking Agents or Transient Lodging Intermediaries who facilitate the rental of rooms of a Hotel as defined in Chapter 6.09, in addition to Short-Term Rentals are not required to collect this fee on Hotel room rentals.

### **6.09.030 Administrative Authority**

- 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.
- 1.** Before adopting a new rule, a public hearing must be held. The Director shall give reasonable notice of the hearing, not less than 10 nor more than 30 days before the hearing. The notice shall include the place, time, purpose of the public hearing, a brief description of the proposed rule(s) and where copies of the full text of the proposed rule(s) may be obtained.

2. At the hearing, the Director must accept oral or written testimony concerning the proposed rule. The Director must either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the hearing. Unless otherwise stated, all rules adopted by the Director are effective upon adoption.

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.

#### **6.09.040 Due Dates; Returns and Payments**

**A.** The fee imposed by this Chapter is due and payable on or before the last day of the month for the preceding month or other reporting period allowed by the Division. Amounts due are considered delinquent on the first of the month, or in the case when 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.

**B.** A return must be filed with the fee due on a form prescribed by the Division by the due date in Subsection A. above. Returns must show the amount of the fee owed for the period. The Division may require returns to include additional information to explain the fee calculation.

**C.** The Booking Agent or Transient Lodging Intermediary required to file the return must deliver the return, together with the remittance of the fee amount due, to the Division at its office, either by personal delivery or mail. If the return is mailed, the postmark will be considered the day of delivery for determining delinquencies.

**D.** For good cause, the Division may extend the time for making any return or payment of the fee due for one month. No further extension will be granted. Any Booking Agent or Transient Lodging Intermediary granted an extension will pay interest at the rate of 1.25 percent for the month on the amount of fee 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 period, then the interest will be added to the fee due for the computation of penalties and additional interest as detailed elsewhere in the Chapter.

**E.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the fee in any individual case, may require returns and payment of fees due for other than monthly periods. If a Booking Agent or Transient Lodging Intermediary is required to report on a different basis, the Division will provide a schedule showing the filing periods, due dates and delinquent dates.

**6.09.050 Registration**

All Booking Agents and Transient Lodging Intermediaries that facilitate any Short-Term Rental reservations for Transient Lodging Occupancy must register with the Division. Failure to register with the Division does not relieve the Booking Agent or Transient Lodging Intermediary from the obligation to pay the fee. Registration must state the name under which the Booking Agent or Transient Lodging Intermediary transacts business, any affiliated companies or brands that are associated with the registration, the location of the place of business and other information necessary to facilitate the collection of the fee as the Division may require.

**6.09.060 Penalties and Interest**

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

**B. Continued Delinquency.** Any Booking Agent or Transient Lodging Intermediary 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 fee due plus all penalty and interest assessments at the time of the continued delinquency.

**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 amount due will be added in addition to 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 Booking Agent or Transient Lodging Intermediary that fails to file or pay any fee 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 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 merge with fee.** Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the fee required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the fee due. This amount becomes the new base for calculation new penalty and interest amounts. This merging continues each month until the full balance is paid.

**F. Petition for Waiver.** Any Booking Agent or Transient Lodging Intermediary that fails to pay the fee within the time stated must pay the fee, penalties and interest

assessed; however, the Booking Agent or Transient Lodging Intermediary 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.

#### **6.09.070 Administration and Recordkeeping**

**A. Records.** Booking Agents and Transient Lodging Intermediaries must keep appropriate records, including but not limited to accounting and bank records, detailed transaction information including Short-Term Rental location and number of nights rented during the period and any other documentation necessary to support the fee calculation and report filed or required to be filed. All records must be retained by the Booking Agent or Transient Lodging Intermediary for a period of 5 years and 6 months after the filing of the return, amended return or payment of the fee, 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, reservation records and accounting records relating to returns filed by Booking Agents or Transient Lodging Intermediaries, after notification by the Division and may investigate the business of the Booking Agent or Transient Lodging Intermediary in order to verify the accuracy of any return made or if no return is filed, to determine the amount required to be paid.

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

#### **6.09.080 Deficiency Determinations; Redeterminations**

**A. Deficiency determinations.** If the Division determines that a return is incorrect, that required reports or returns have not been filed or that a Booking Agent or Transient Lodging Intermediary has otherwise failed to comply with the terms of this Chapter, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within 10 days. The Division may assess penalties and interest as set forth in Section 6.09.060.

- 1.** The Booking Agent or Transient Lodging Intermediary may petition for a redetermination if the petition is filed with 10 days of the postmark date on the written deficiency notice. Nothing prohibits the Division from extending the time for petition beyond ten days at its sole discretion.

- 2.** Every deficiency determination must be made and notice mailed within five 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 remit the fee, 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.** Any Booking Agent or Transient Lodging Intermediary against whom a deficiency determination is made or civil penalties are assessed under Section 6.09.100 may petition for a redetermination within the time required in this Section. If a petition for redetermination is filed timely, the Director will consider 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.

**1.** 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.

**2.** 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 of the postmark date on the written order.

**3.** No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Booking Agent or Transient Lodging Intermediary has first paid in full the amount determined to be due in the deficiency determination or civil penalty assessment that is being appealed.

**C.** Appeals of penalty and/or interest assessments are not subject to the appeals process outlined in Section 6.09.090. The decision of the Director regarding penalty and interest assessments is final.

#### **6.09.090 Business License Appeals Board; Hearings Officer; Appeal; Rules**

Any Booking Agent or Transient Lodging Intermediary aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal as allowed in 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 Section 6.04.140 will apply to any such appeal.

#### **6.09.100 Civil Penalties**

**A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any fee within 60 days of the Due Date provided in Section 6.09.040.

- B.** Failure to separately state on the guest receipt the per night privilege charge if the charge is being passed through to the guest as an additional charge or fee.
- C.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.09.090.