

# Exhibit B

## Title 6 Special Taxes

### Chapter 6.04 Transient Lodgings Tax

(Chapter replaced by Ordinance 161506, effective January 1, 1989.)

#### 6.04.010 Definitions.

(Amended by Ordinances 162647, 186985, 187339, 188170 and 189557, effective July 12, 2019.)

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

- A. “Accrual Accounting”** means the oOperator enters the rRent due from a tTransient on their records when the rRent is earned, whether or not it is paid.
- B. “Booking Agent”** means any pPerson that provides a means through which a hHost may offer a sShort-tTerm rRental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a hHost to advertise the sShort-tTerm rRental through a website provided by the bBooking aAgent’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 hHost or to the bBooking aAgent. Booking aAgents include, but are not limited to:
1. Online travel booking sites which are involved in the process of listing and booking sShort-tTerm rRental transient lodging occupancies and handle any aspect of the resulting financial transaction; or
  2. Online travel booking sites for sShort-tTerm rRental transient lodging occupancy where advertisements of sShort-tTerm rRental transient lodging occupancy rentals are displayed; or
  3. A hosting or other online site that provides a means through which an oOperator, hHost or agent may offer a sShort-tTerm rRental unit for transient lodging occupancy; or
  4. Any pPerson who lists commercial hHotel rooms or long-term rentals for transient lodging occupancy; or

5. Any **P**erson 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 **t**ransient.
- C.** **“Division”** means, for the purposes of this Chapter, the revenue service and program of the City Administrator under Chapter 3.06 of this Code; and may also be referenced as “Revenue Division.” ~~of the Bureau of Revenue and Financial Services of the City of Portland.~~
- D.** **“Director”** means the City Administrator or their designee who carries out the work ~~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.~~
- FE.** **“Cash aAccounting”** means the **o**perator does not enter the **r**ent due from a **t**ransient on their records until **r**ent is paid.
- GF.** **“Host”** means the owner or person who resides at a **s**hort-**t**erm **r**ental or has been designated by the owner or resident of the **s**hort-**t**erm **r**ental and who rents out the **s**hort-**t**erm **r**ental for transient lodging occupancy either directly or through the use of a **b**ooking **a**gent.
- HG.** **“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 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 **h**otels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.
- IH.** **“Occupancy”** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any **r**oom, **r**ooms or portion thereof in a **h**otel as defined above.
- Jl.** **“Operator”** means:

1. Any **p**Person who provides one or more **r**Rooms for **o**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 **h**Hotel consents to allow to process reservations and accept payments from the **t**Transient on behalf of the **h**Hotel; or
2. Any **p**Person that facilitates the reservation of an accommodation and collects the payment for the **r**Room reservation from the **t**Transient; or
3. Any **t**Transient **l**Lodging **p**Provider, **t**Transient **l**Lodging **i**ntermediary or **t**Transient **l**Lodging **t**Tax **c**ollector as defined in ORS 320.300; or
4. A **b**Booking **a**Agent as defined in this Chapter.

There may be more than one **o**Operator for a **h**Hotel and each **o**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 **h**Hotel owner and/or management, online travel companies, **b**Booking **a**Agents or other online travel facilitators, travel agents or companies, contracted management companies or any other **p**Person that secures the right to occupy a **r**Room on behalf of the **t**Transient and receives payment from the **t**Transient for that right whether or not the **o**Operator is the ultimate recipient of the payment.

- KJ.** **“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.
- LK.** **“Rent”** means the full consideration charged to the **t**Transient for the right to occupy a **r**Room in a **h**Hotel, valued in money, goods, gift cards, labor, credits, property or other consideration of value without any deduction. Rent is considered to be the total amount represented to the **t**Transient by an **o**Operator as the consideration charged for the **o**Occupancy including any accommodation fees, commissions or similar amounts paid to or withheld by a **p**Person that facilitates the reservation of a **r**Room.
- ML.** **“Rent pPackage pPlan”** means the consideration charged for both food and **r**Rent where a single rate is made for the total of both. The amount applicable to **r**Rent for determination of transient room tax under this Chapter is considered the same charge made for **r**Rent of the identical room when it is not a part of a package plan.

- M.** Revenue Division Appeals Board means the Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- N.** **“Room”** means each portion of a hHotel ~~which~~-that 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-~~t~~Term rRental”** means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging oOccupancy. Generally, a sShort-~~t~~Term rRental is zoned residential or has a building occupancy that only allows for residential use.
- P.** **“Short-~~t~~Term rRental rRegistry”** means sShort-~~t~~Term rRentals that have valid, current Type A or Type B Accessory Short-Term Rental permits as required by Chapter 33.207 in this Code and that are recorded in the City’s Portland Maps or successor database platform publicly available on the City’s website. A copy of the rRegistry ~~shall~~-will be made available to any person upon request.
- Q.** **“Tax”** means either the tax payable by the tTransient or the aggregate amount of taxes due from an oOperator during the period for which the oOperator is required to report their collections.
- R.** **“Transient”** means any individual who exercises oOccupancy or is entitled to oOccupancy in a hHotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a tTransient checks out of the hHotel is not included in determining the 30-day period if the tTransient is not charged rent for that day by the oOperator. Any such individual so occupying space in a hHotel is deemed to be a tTransient 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 oOccupancy, and the tenancy actually extends more than 30 consecutive days.

#### 6.04.020 Tax Imposed.

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

For the privilege of oOccupancy in any hHotel, each tTransient ~~shall~~-must pay a tax in the amount of ~~six~~6 percent of the rRent charged by the oOperator. The tTax constitutes a debt owed by the tTransient to the City, which is extinguished

only by payment by the oOperator to the City. The tTransient ~~shall~~ must pay the tTax to the oOperator of the hHotel at the time the rRent is paid. The oOperator must enter the tax on their records when rRent is collected if the oOperator keeps their records on the cCash aAccounting basis and when earned if the oOperator keeps their records on the aAccrual aAccounting basis. If rRent is paid in installments, a proportionate share of the tax must be paid by the tTransient to the oOperator with each installment. In all cases, the rRent paid or charged for oOccupancy 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 188170, effective January 20, 2017.)

- A. The City Administrator ~~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 City Administrator ~~Director~~.
- B. The City Administrator ~~Director~~ may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C. The ~~Director~~ City Administrator, as authorized by Charter, 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 Ordinances 187339 and 188170, effective January 20, 2017.)

- A. Operators must collect a tTax from the tTransient. The tTax collected or accrued by the oOperator constitutes a debt owing by the oOperator to the City.

- B. In cases of deferred payment of **rRent**, the payment of **tTax** to the **oOperator** may be deferred until the **rRent** is paid, and the **oOperator** shall will not be liable for the **tTax** until credits are paid or deferred payments is made. Adjustments may be made for uncollectible **rRent** where appropriate.

#### 6.04.040 Booking Agent and Operator Duties.

(Amended by Ordinances 186985, 187339, 188170, 188501 and 189557, effective July 12, 2019.)

- A. Operators must collect the **tTax** imposed by this **cChapter** at the same time as the **rRent** is collected from every **tTransient**. The amount of **tTax** must be separately stated upon the **oOperator**'s records, and any receipt rendered by the **oOperator**. If a single amount is stated on the **oOperator**'s records or receipts without a breakout between **rRent** and **tTax**, the **dDivision** will deem the entire amount is **rRent** and **tTax** will be calculated on the total amount. No imputation of **tTax** is permitted. No **oOperator** may advertise that the **tTax** or any part of the **tTax** will be assumed or absorbed by the **oOperator**, or that it will not be added to the **rRent**, 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, **hHost** or other responsible **pPerson** 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.
- C. Booking **aAgents** or **oOperators** shall may not complete any booking transaction or collect **rRent** for any **sShort-tTerm rRental** unless it is listed in the City's **sShort-tTerm rRental rRegistry** at the time the **bBooking aAgent** or **oOperator** receives a fee or **rRent** for the booking transaction. An exception to this requirement is if the **bBooking aAgent** or **oOperator** has entered into a pass-through registration data-sharing agreement in a form acceptable to and approved by the Revenue Division Director.
- D. Booking **aAgents** or **oOperators** shall may not collect or receive a fee or any portion of **rRent**, directly or indirectly through a **pPerson**, agent or intermediary, for facilitating or providing services ancillary to a vacation rental, or **sShort-tTerm rRental** that is not in the **sShort-tTerm rRental rRegistry**, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential

property or unit. An exception to this requirement is if the **b**Booking **a**Agent or **o**Operator has entered into a pass-through registration data-sharing agreement in a form acceptable to and approved by the Revenue Division Director.

#### **6.04.050 Exemptions.**

(Amended by Ordinances 162647 and 188170; effective January 20, 2017.)

No tax imposed under this Chapter ~~shall~~will be imposed upon:

- A.** Any occupant for more than 30 successive calendar days (a **p**Person who pays for lodging on a calendar month basis, irrespective of the number of days in such a month, ~~shall~~will not be deemed a **t**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 **p**Person housed through an emergency shelter or disaster program where the **r**Rent is paid with government assistance funds; or
- 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 **r**Rents paid by contractors of the Federal Government, even if the **o**Occupancy was for a Federal Government employee on official business, and notwithstanding the fact that such **r**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 Ordinances 186736, 187339 and 188170, effective January 20, 2017.)

- A.** Person engaging or about to engage in business as an **o**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 **p**Person from the obligation of payment or collection of **t**Tax. **r**Registration must state the name under which an **o**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 **t**Tax as the Division may require. The **o**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 **t**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 **r**Rent transaction is facilitated online, the Certificate of Authority must be able to be viewed by the **t**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 **o**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 **P**erson to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a **H**otel 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 **a**Accessory **s**Short-**t**Term **r**Rentals must comply with the requirements of Chapter 33.207. In addition, all **o**Operators of Type A and Type B accessory **s**Short-**t**Term **r**Rentals as described in [Portland City Code](#) Chapter 33.207 must prominently display the Type A **p**Permit **n**Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No **o**Operator will advertise or otherwise represent that an accessory **s**Short-**t**Term **r**Rental is available for **o**Occupancy unless all applicable legal requirements allowing the **o**Occupancy of a **s**Short-**t**Term **r**Rental has been met and the **o**Operator has registered with the Division as required above. Additionally, this **p**Permit **n**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 Ordinances 187339 and 188170, effective January 20, 2017.)



- A. The tax imposed by this Chapter must be paid by the ~~t~~Transient to the ~~o~~Operator at the time that ~~r~~Rent is paid. All amounts of such taxes collected by any ~~o~~Operator are due and payable to the Division on or before the last day of the following month for the preceding ~~three~~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 ~~o~~Operators for determination of applicable tax periods, and will notify each ~~o~~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 ~~o~~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 ~~p~~Person required to file the return ~~shall~~must 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~~will be considered the date of delivery for determining delinquencies.
- E. For good cause, the Division may extend for ~~4~~one month the time for making any return or payment of tax. No further extension will be granted, except by the Director. Any ~~o~~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 ~~o~~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 Ordinances 187339, 188170 and 189557, effective July 12, 2019.)

- 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 City Administrator ~~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 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 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 ~~4~~one 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 City Administrator ~~Director~~ for waiver and refund or credit of all or part of the penalty assessed and the City Administrator ~~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.
- G.** Any violation of Subsections 6.04.040 C. or D., Booking Agent and Operator Duties, ~~shall~~will be subject to a civil penalty of \$1,000 per

violation per day. Each booking transaction or fee collected ~~shall~~will be considered a separate violation.

**6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.**

(Replaced by Ordinance 184772; amended by Ordinances 187339 and 188170, effective January 20, 2017.)

**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~~10 days. The City Administrator ~~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 o~~t~~Operator or t~~T~~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 o~~t~~Operator at the address as it appears on the records of the Division or as the Division can best determine if the o~~t~~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 o~~t~~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 five~~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~~five-year limitation above.

- B.** Operator delay. If the City Administrator ~~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 City Administrator ~~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 ~~o~~Operator will immediately pay such determination to the Division after service of notice thereof; provided, however, the ~~o~~Operator may petition, after payment has been made, for a redetermination of the City Administrator~~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 Ordinances 184772, 187339 and 188170, effective January 20, 2017.)

- A.** Any ~~p~~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 City Administrator ~~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 City Administrator ~~Director~~ may continue the hearing from time to time as may be necessary.
- C.** The City Administrator ~~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 City Administrator~~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~~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 Ordinances 162647, 187339 and 188170, effective January 20, 2017.)

The Division, whenever deemed necessary to ensure compliance with this Chapter, may require any ~~Operator~~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~~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 Ordinances 187339 and 188170, effective January 20, 2017.)

- A. Credits by City to ~~o~~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~~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 ~~three~~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~~operator. If there is no future liability, the Division may issue a refund.
- B. Refunds by City to ~~t~~Transient. Whenever the tax required by this Chapter has been collected by the ~~Operator~~operator, and paid by the ~~Operator~~operator to the Division, and it is later determined that the tax was erroneously collected by the ~~Operator~~operator, it may be refunded by the Division to the ~~t~~Transient or the party who paid the tax if different from ~~t~~Transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Division within ~~three~~3 years from the date of payment. Prior to any refund, the Division will audit the ~~Operator~~operator's records to determine that the tax was collected and paid to the City.
- C. Refunds by ~~o~~Operator to ~~t~~Transient. Whenever the tax required by this Chapter has been collected by the ~~Operator~~operator and it is later determined that the tax was collected in error, the ~~Operator~~operator will refund to the ~~t~~Transient the tax previously collected. The ~~Operator~~operator will account for such collection and refund to the Division. If the ~~Operator~~operator has remitted the tax prior to refund to the ~~t~~Transient, the ~~Operator~~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 Ordinances 187339, 188170 and 188501, effective July 5, 2017.)

- A.** Records required from ~~o~~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 ~~five~~5 years and ~~six~~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 ~~City Administrator 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~~operator, after notification to the ~~Operator~~operator liable for collecting and remitting the tax, and may investigate the business of the ~~Operator~~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 ~~City Administrator Director~~ may issue subpoenas to any ~~Operator~~operator or ~~Person~~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~~operator or ~~Person~~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~~operator or ~~Person~~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~~operator or ~~Person~~person subpoenaed as provided fails to appear or produce any records as required, or whenever any ~~Operator~~operator or ~~Person~~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~~operator or ~~Person~~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~~operator or ~~Person~~person against whom the subpoena is directed to comply with the subpoena within ~~three~~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 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~~will be entitled to its reasonable costs and attorneys' fees.
- E. At any time within ~~five~~5 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within ~~five~~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.
- 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~~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~~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~~Revenue Division Appeals Board; Hearings Officer; Appeal; Rules.**

(Replaced by Ordinance 184772; amended by Ordinances 187339 and 188170, effective January 20, 2017.)

- A. Except as provided herein, the ~~Business License~~Revenue Division Appeals Board has authority to hear and determine appeals of orders or decisions of the ~~City Administrator~~Division or Director made 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 ~~City Administrator~~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 ~~City Administrator~~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 ~~City Administrator~~Division as an order or decision of the ~~City Administrator~~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~~Revenue Division 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~~Revenue Division 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.
- 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~~will 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~~ Revenue Division Appeals Board, Hearings Officer.**

(Replaced by Ordinance 184772; amended by Ordinances 187339 and 188170, effective January 20, 2017.)

Any ~~Operator~~operator or ~~Transient~~transient aggrieved by a decision of the ~~City Administrator~~ Director made pursuant to Section 6.04.100 may appeal to the ~~Business License~~ Revenue Division Appeals Board or Hearings Officer as allowed in Section 6.04.140 by filing a notice of appeal with the ~~City Administrator~~ Director within 10 days of the service of the notice of a ~~City Administrator~~ Director's decision. Any hearing will be scheduled by the ~~Business License~~ Revenue Division 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 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~~operator must follow the "Redetermination" procedures under Section 6.04.100. The decision of the ~~City Administrator~~ Director regarding penalty and interest assessments is final.

**6.04.160 Appeals to City Council.**

(Repealed by Ordinance 184772, effective August 26, 2011.)

**6.04.165 Presumptive Tax for Failure to Register or File Returns.**

(Added by Ordinance 188170, effective January 20, 2017.)

- A. The ~~City Administrator~~ Director may impose a presumptive tax upon any ~~Person~~person failing or refusing to register as an ~~Operator~~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~~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~~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 ~~Operator~~operators.
- C. Any presumptive tax issued under this ~~S~~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 ~~City Administrator 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 Ordinances 186985, 187339 and 188170, effective January 20, 2017.)

It is unlawful for any ~~Operator~~operator or other ~~Person~~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~~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 presumptive taxes assessed under Section 6.04.165, the ~~City Administrator 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 ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental, or failure to register as an ~~Operator~~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~~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 ~~h~~Host to post the number in the ~~s~~Short-~~t~~Term ~~r~~Rental unit; and
- G. Failure by an ~~Operator~~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 ~~s~~Short-~~t~~Term ~~r~~Rental.
- H. Failure by an ~~Operator~~operator to maintain records required in Subsection 6.04.130 A.

## Chapter 6.05 Tourism Improvement District

(Chapter added by Ordinance 185443, effective July 20, 2012.)

### Sections:

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Registration Required.
- 6.05.040 License Transfer.
- 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 Penalties and Interest.
- 6.05.105 ~~Business License~~Revenue Division 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.

(Amended by Ordinance 189028, effective August 1, 2018.)

The Portland Tourism Improvement District includes all ~~h~~Hotels, as defined in Section 6.05.020, and all ~~s~~Short-~~t~~Term ~~r~~Rental ~~h~~Hosts who use ~~b~~Booking ~~a~~Agents to advertise or accept reservations within the ~~Portland~~City limits.

### 6.05.020 Definitions.

(Amended by Ordinances 187339, 187828, 188171, 189028, 190318, and 191559, effective July 1, 2024.)

- A. “Booking aAgent”** means any ~~Person~~person that provides a means through which a ~~h~~Host may offer a ~~s~~Short-~~t~~Term ~~r~~Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a ~~h~~Host to advertise the ~~s~~Short-~~t~~Term ~~r~~Rental through a website provided by the ~~b~~Booking ~~a~~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 ~~h~~Host or to the ~~b~~Booking ~~a~~Agent. Booking ~~a~~Agents include, but are not limited to:
1. Online travel booking sites which are involved in the process of listing and booking ~~s~~Short-~~t~~Term ~~r~~Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; or
  2. Online travel booking sites for ~~s~~Short-~~t~~Term ~~r~~Rental transient lodging occupancy where advertisements of ~~s~~Short-~~t~~Term ~~r~~Rental transient lodging occupancy rentals are displayed; or
  3. A hosting or other online site that provides a means through which an ~~Operator~~operator, ~~h~~Host or agent may offer a ~~s~~Short-~~t~~Term ~~r~~Rental unit for transient lodging occupancy; or
  4. Any ~~Person~~person who lists commercial ~~h~~Hotel rooms or long-term rentals for transient lodging occupancy; or
  5. Any ~~Person~~person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through ~~a~~Application ~~p~~Programming ~~i~~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~~transient; or
  6. Any ~~t~~Transient ~~i~~Lodging ~~p~~Provider, ~~t~~Transient ~~i~~Lodging ~~i~~ntermediary or ~~t~~Transient ~~i~~Lodging ~~t~~Tax ~~c~~ollector as defined in ORS 320.300.
- B. “Division”** means, for the purposes of this Chapter, the revenue service and program of the City Administrator under Chapter 3.06 of this Code, and which may be referred to as 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”** mean the City Administrator or their designee who carries out the work of the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or designee;

- D. **“District”** means the Portland Tourism Improvement District as described in this Chapter;
- E. **“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 latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;
- F. **“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 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 **H**otels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.
- G. **“Engaged in hotel management activities”** means:
1. Being financially responsible for a water service provided to a **h**Hotel or **s**Short-**t**Term **r**Rental; or
  2. Being financially responsible for operation of a **h**Hotel or **s**Short-**t**Term **r**Rental business; or
  3. Being responsible for initiating or maintaining **s**Short-**t**Term **r**Rental listing information on an online travel booking site; or
  4. Being financially responsible for the indicia of management of a **h**Hotel or **s**Short-**t**Term **r**Rental, 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 **h**Hotel or **s**Short-**t**Term **r**Rental;
    - b. Being responsible for providing fire insurance for a **h**Hotel or **s**Short-**t**Term **r**Rental;

- c. Being responsible for repair and maintenance of a ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental;
  - d. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental; and
  - e. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental.
- H. "City Council"** means the City Council of the City of Portland, Oregon.
- I. "Rent"** means the full consideration charged to the ~~T~~ransient~~t~~ransient for the right to occupy a ~~r~~Room in a ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental 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 ~~T~~ransient~~t~~ransient as the consideration charged for the occupancy including any accommodation fees, customer fees, booking fees, service fees, off-platform booking fees, non-refundable fees, commissions or similar amounts paid to or withheld by a ~~P~~erson~~p~~erson that facilitates the reservation of a ~~r~~Room.
- J. "Management Ccorporation"** means an incorporated nonprofit organization that is responsible for the promotion of ~~P~~ortland~~t~~he ~~C~~ity on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- K. "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 ~~h~~Hotel management activities within the District.
- L. "Licensee"** means a person licensed to engage in hotel management activities within the District under this Chapter.
- M. "Room"** means each portion of a ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental 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.

- N. “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 ~~sShort-tTerm rRental~~ is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow ~~tTransient lLodging oOccupancy~~ by right or by permit.
- O. “Short-Term Rental Host”** means the owner, agent or person who resides at a ~~sShort-tTerm rRental~~ or has been designated by the owner, agent or resident of the ~~sShort-tTerm rRental~~ and who rents out the ~~sShort-tTerm rRental~~ for transient lodging occupancy either directly or by using a ~~bBooking aAgent~~ or Transient Lodging Intermediary.

#### **6.05.030 License Registration Required.**

(Amended by Ordinances 187828 and 189028, effective August 1, 2018.)

Any person engaged in ~~hHotel mManagement aActivities~~ of any ~~hHotel~~ or ~~sShort-tTerm rRental~~ who use ~~bBooking aAgents~~ to advertise or accept reservations within the District ~~shall-must~~ register 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 needs to register for each ~~hHotel~~ or ~~sShort-tTerm rRental~~ who use ~~bBooking aAgents~~ to advertise or accept reservations in the District. The term “license,” as used in this Chapter, ~~shall-may~~ 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 ~~hHotel~~ or ~~sShort-tTerm rRental~~ management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required ~~hereunder~~ ~~this Section~~ and the acceptance of such fee ~~shall-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.

#### **6.05.040 License Transfer.**

(Amended by Ordinance 187828, effective July 15, 2016.)

- A.** Except as provided in this Section, no license ~~shall-may~~ be transferred or assigned from one person to another.
- B.** The Division ~~shall-will~~ 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-must will~~ be reported to the Division in writing or on a form provided by the Division and ~~shall-will~~ be effective when the Division approves the transfer as complete. The licensee ~~shall-will~~ be responsible for any license fee installments which become payable prior to the Division’s approval;



and the transferee ~~shall~~will be responsible for any license fee installments which become payable after the Division's approval.

**6.05.050 License Term.**

(Repealed by Ordinance 189028, effective August 1, 2018.)

**6.05.060 Portland Tourism Improvement District License Rate.**

(Amended by Ordinances 189028, 190318 and 191559, effective July 1, 2024.)

The license assessment established by this Chapter for ~~h~~Hotel or ~~s~~Short-~~t~~Term ~~r~~Rental management activities in the Portland Tourism Improvement District ~~shall~~will be calculated as follows:

- A. Gross rent charged by the ~~Hotel~~hotel or ~~Short-Term-Rental~~short-term rental who use ~~Booking-Agent~~booking agents to advertise or accept reservations;
- 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~~will 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 U.S. 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) for stays occurring before July 1, 2021 and by .03 (three percent) for stays occurring after June 30, 2021.

**6.05.070 Due Date; Returns and Payments.**

(Amended by Ordinances 187828, 188171 and 189028, effective August 1, 2018.)

- 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 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 ~~Hotel~~hotels or ~~Short-Term-Rental~~short-term rental who use ~~Booking-Agent~~booking agents to advertise or accept reservations 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~~hotel or ~~Short-Term-Rental~~short-term rental 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~~person required to file the return ~~shall~~must 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~~will 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~~hotel or ~~Short-Term-Rental~~short-term rental who use ~~Booking-Agent~~booking agents to advertise or accept reservations is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.
- G. Any ~~b~~Booking ~~a~~Agent or ~~t~~Transient ~~l~~Lodging ~~i~~Intermediary who collects and remits the Transient Lodging tax imposed under Chapter 6.04, ~~shall~~must also provide a ~~s~~Short-~~t~~Term ~~r~~Rental ~~h~~Host an option for the ~~b~~Booking ~~a~~Agent or ~~t~~Transient ~~l~~Lodging ~~i~~Intermediary to collect and remit the assessment imposed by this Chapter.

#### **6.05.080 Disposition of License Fees.**

(Amended by Ordinance 187828, effective July 15, 2016.)

The Division ~~shall~~will forward revenues collected, minus any amount withheld to cover administrative costs incurred by the Division to the ~~m~~Management ~~c~~Corporation, which ~~shall~~will manage funds pursuant to Section 6.05.120.

**6.05.090 Authority of ~~City Administrator~~Director to Adopt Rules, Procedures, and Forms.**

(Amended by Ordinance 187828, effective July 15, 2016.)

**A.**—The ~~Director~~City Administrator, as authorized by Charter, 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 will 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 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 shall will be conducted, but no additional public notice shall 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 shall will be effective upon adoption by the Director. All rules adopted by the Director shall will be filed in the Division's office. Copies of all current rules shall will 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 will be effective for a period of no longer than 180 days.~~

**6.05.100 Penalties and Interest.**

(Amended by Ordinance 187828, 188171 and 189028, effective August 1, 2018.)

- A.** Original ~~d~~Delinquency. Any ~~l~~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 ~~d~~Delinquency. Any ~~l~~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 25 percent of the assessment ~~shall~~ will 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 ~~one~~ 4 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~~ will 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 ~~w~~Waiver. Any ~~l~~Licensee that fails to pay the assessment within the time stated must pay the tax, penalties and interest assessed; however, the ~~Hotel~~ 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~~ Revenue Division Appeals Board; Hearings Officer; Appeal; Rules.**

(Added by Ordinance 187828, effective July 15, 2016.)

Any person engaged in hotel management activities aggrieved by a decision of the ~~City Administrator~~ Division or Director made pursuant to this Chapter may appeal to the ~~Business License~~ Revenue Division Appeals Board or Hearings

Officer as allowed in City Code Section 6.04.140 by filing a notice of appeal with the City Administrator~~Division Director~~ within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the ~~Business License Revenue~~ Division 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 Ordinances 187828 and 189028, effective August 1, 2018.)

- A. The City Administrator ~~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. Failure to separately state on the guest folio, bill or receipt the two~~2~~ percent fee 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~~will be subject to appeal pursuant to Section 6.05.105.

#### **6.05.120 Revenues and Programs.**

(Amended by Ordinances 187828, 189028 and 190318, effective April 9, 2021.)

- A. Revenues ~~shall~~may be used only for programs ~~which~~that promote overnight tourism and improve the lodging and hospitality business environment. Programs ~~shall~~must be designed to benefit both ~~Hotel~~hotels and ~~Short-Term Rental~~short-term rental ~~h~~Hosts who use ~~Booking Agent~~booking agents to advertise or accept reservations 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 ~~Hotel~~hotels or ~~Short-Term Rental~~short-term rentals.
- B. Revenues ~~shall~~must be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which ~~shall~~will be the mManagement cCorporation. The mManagement cCorporation ~~shall~~:

1. ~~Must p~~Prepare and submit to the City Council, and make available to lodging businesses, an annual report on expenditures and activities;
2. ~~Must m~~Manage funds in accordance with the provisions of this Chapter;
3. ~~Will n~~Not be considered a public entity for any purpose; ~~and nor shall~~ its Board members will not be considered public officials for any purpose; and
4. ~~E~~Must enter into an aAgreement 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~~will 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.**

(Repealed by Ordinances 191559, effective July 1, 2024.)

**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~~will not be affected but ~~shall~~will remain in full force and effect.

**Chapter 6.06 - District Property Management License**

[No changes – to be addressed by separate ordinance.]

**Chapter 6.07 Tax on Recreational Marijuana Sales**

(Chapter added by Ordinance 186857; amended by Resolution 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~~[this Chapter](#), every person who sells recreational marijuana, or recreational marijuana-infused products, to consumers within ~~the City~~[Portland](#) is exercising a taxable privilege. The purpose of [this Chapter](#)~~PCC 6.07~~ is to impose a tax upon recreational marijuana and recreational marijuana-infused product sales to consumers within [Portland](#)~~the City~~.

#### **6.07.020 Definitions.**

(Amended by Resolution 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 [this Chapter](#)~~PCC 6.07~~ have the following meanings:

- A. **“Director”** means the [City Administrator or their designee who carries out the work of the revenue service and program of the City Administrator under Chapter 3.06 of this Code and which may be referred to as “Revenue Division” or “Division” for the purposes of this Chapter](#)~~director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee~~, and includes any ~~Person~~[person](#) or entity with whom the City contracts to administer and enforce the Marijuana Tax program or a portion thereof.
- 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~~ it.
- 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 sSeller by or on behalf of a cConsumer of marijuana.
- G. **“Retail sSale”** 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 Portland~~the City of Portland~~.
- I. **“Tax”** means either the tax payable by the sSeller or the aggregate amount of taxes due from a sSeller during the period for which the sSeller is required to report collections under this Chapter~~PCG 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 this Chapter~~PCG 6.07~~.

#### 6.07.030 Levy of Tax.

(Amended by Resolution 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A. Every sSeller exercising the taxable privilege of retail sales of marijuana within Portland~~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 sSeller in a retail sale of marijuana to any cConsumer.

#### 6.07.035 Exemption of Medical Marijuana Cardholders from Marijuana Tax.

(Added by Resolution 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 ~~s~~Seller to a registry identification cardholder or to a designated primary caregiver who is purchasing marijuana for a registry identification cardholder; and
  - 2.** A ~~s~~Seller may not collect the tax imposed under Section 6.07.030 from a ~~c~~Consumer if, at the time at which the retail sale of the marijuana occurs, the ~~c~~Consumer provides proof to the ~~s~~Seller that the ~~c~~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 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

The following deductions are allowed against sales received by the ~~s~~Seller providing marijuana:

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

**6.07.050 Seller Responsible for Payment of Tax.**

(Amended by Ordinance 188215, effective March 3, 2017.)

- A.** Every ~~s~~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 ~~this Chapter PCC 6.07~~ and the amount of tax collected under ~~this Chapter PCC 6.07~~. The ~~s~~Seller may request, or the Director may establish, shorter reporting periods for any ~~s~~Seller if the ~~s~~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 s 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 [this Chapter](#) ~~PCC 6.07~~ and the amount of tax collected under [this Chapter](#) ~~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~~ [their](#) 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 [this Chapter](#) ~~PCC 6.07~~ on the City's behalf until the s 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 s Seller must keep and preserve in an accounting format established by the Director records of all sales made by the s Seller and such other books or accounts as the Director may require. Every s 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 37217 (approved at November 8, 2016 election) and Ordinances 188215 and 189004, effective July 1, 2018.)

- A. Any s Seller who fails to remit any portion of any tax imposed by [this Chapter](#) ~~PCC 6.07~~ within the time required must pay a penalty of [five](#)5 percent of the unpaid tax, in addition to the amount of the tax.

- B. If any s Seller fails to file any return for a period in excess of one month after the return due date, there ~~shall~~ will 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 Subsections 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 this Chapter ~~PCC 6.07~~ is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added ~~thereto~~ it in addition to the penalties stated in PCC Subsections 6.07.060 A., ~~PCC~~ 6.07.060 B., and ~~PCC~~ 6.07.060 C.
- E. In addition to the penalties imposed, any s Seller who fails to remit any tax imposed by ~~PCC 6.07~~ this Chapter must pay interest at the annual rate of five ~~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 five ~~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 Cannabis 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 188215, effective March 3, 2017.)

- A. If any s Seller fails to make any report of the tax required by this Chapter ~~PCC 6.07~~ within the time provided in this Chapter ~~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 this Chapter ~~PCC 6.07~~ and payable by any s Seller, the Director may determine

and assess against such sSeller the tax, interest and penalties provided for by [this Chapter](#)~~PGC-6.07~~.

- B. If the Director makes a determination as outlined in ~~PGC-Subsection~~ 6.07.070 A., the Director must give notice to the sSeller of the amount assessed. The notice must be personally served on the sSeller or deposited in the United States mail, postage prepaid, addressed to the sSeller at the last known place of address.
- C. The sSeller may appeal the determination as provided in ~~PGC-Section~~ 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 188215, effective March 3, 2017.)

- A. Any sSeller 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 sSeller must follow the administrative appeal process that is set forth by the Director or designee.

#### **6.07.090 Credits/Refunds.**

(Amended by Ordinance 188215, effective March 3, 2017.)

- A. The Director may credit to the sSeller any tax, interest or penalty amount under any of the following circumstances:
  1. The sSeller has overpaid the correct amount of tax, interest or penalty; or
  2. The sSeller 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 sSeller under the provisions of [this Chapter PCC-6.07](#) is a debt owed by the sSeller to the city. Any tax collected by a sSeller that has not been paid to the City is a debt owed by the sSeller to the City. Any person owing money to the City under the provisions of [this Chapter 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 [this Chapter PCC-6.07](#) are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of [this Chapter PCC-6.07](#) for any sSeller 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 [this Chapter 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 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 [this Chapter PCC-6.07](#). Nothing in [this PCC-Section 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 s 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 [this Chapter PCC 6.07](#); or
- 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~~ [this Section](#) to:
  - 1. The City Attorney, ~~his or her~~ [their](#) 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 [this Chapter PCC 6.07](#), or
    - c. Aid in determining whether a Revenue Division account is in compliance with all C 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 s Seller's state and federal income

tax return, bearing upon the matter of the s 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 t 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 t Taxpayer or a representative of the t Taxpayer attend a hearing or produce any such books, accounts and records for examination.

#### **6.07.140 Forms and Regulations.**

(Amended by Resolution 37217 (approved at November 8, 2016 election) and Ordinance 188215; effective March 3, 2017.)

- A.** The ~~Director Mayor or delegee, as authorized by Charter, City Administrator or designee is authorized to~~ may enter into contracts or agreements relating to the administration of this PCC Chapter 6.07, including intergovernmental agreements with the State of Oregon as provided in ORS 305.620, and the City Administrator, as authorized by Charter, may ~~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 s Sellers;
  2. The records that s Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by ~~PCC 6.07~~ this Chapter.
- 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 37217 (approved at November 8, 2016 election); amended by Ordinance 189004, effective July 1, 2018.)

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 Cannabis Tax Fund at the beginning of the next fiscal year.~~
- B.** Allocation of revenue from the Recreational Cannabis Tax Fund ~~shall~~ will occur annually as part of the public budget adoption process followed by Council, with funding allocations made annually by City Council.

**CB.** These funds ~~shall~~will 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 Invalidity.**

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

#### **6.07.155 Effective Date.**

(Added by Resolution 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-Section~~ 6.07.030 ~~shall~~will 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 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 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 Sshelters”** 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.**

(Amended by Ordinance 191736, effective July 1, 2024.)

~~A.~~—The ~~Portland Permitting & Development~~ City Administrator 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 ~~Portland Permitting & Development~~ City Administrator 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.**

(Amended by Ordinance 189078, effective July 18, 2018.)

~~A.~~—The ~~Director of the Portland Housing Bureau~~ City Administrator, as authorized by Charter, may adopt procedures, forms and written policies for administering the Construction Excise Tax and Chapter 6.08 of this Code. ~~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 will 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 Community & Civic Life 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 Community & Civic Life. 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.**

(Amended by Ordinance 191736, effective July 1, 2024).

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

**6.08.060 Exemptions.**

(Amended by Ordinance 187975, effective September 7, 2016.)

- A. No tax imposed under this Chapter ~~shall~~ will 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 ~~i~~ improvements;
  5. Public ~~i~~ improvements as defined in ORS 279A.010;
  6. Public or private hospital ~~i~~ 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 ~~u~~ 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 ~~S~~shelters.**

- B.** Until June 30, 2018, no tax ~~shall~~will be imposed under this Chapter 6.08 on accessory dwelling units as defined by Section PCC 33.910 of this Code.
- 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.**

(Amended by Ordinance 191736, effective July 1, 2024.)

The ~~Portland Permitting & Development~~City Administrator ~~may~~will 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 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~~will 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 City Administrator~~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~~will 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.**

(Amended by Ordinance 191736, effective July 1, 2024.)

- A. The Portland Housing Bureau ~~shall~~will 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 ~~Portland Permitting & Development~~ City Administrator;
  3. Upon a determination by either the ~~City Administrator~~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~~will either refund all amounts due under this ~~S~~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~~must 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.**

(Amended by Ordinance 191736, effective July 1, 2024.)

- A. Administrative Review. Any written determination issued by either the ~~Portland Permitting & Development~~ City Administrator or the Portland Housing Bureau applying the provisions of this Chapter 6.08, believed to be in error may be reviewed by the City Administrator ~~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 City Administrator ~~Director~~'s determination in the administrative review ~~shall~~ will be served by regular mail.
- B. Appeals. Any written determination from ~~either the Portland Permitting & Development or the Portland Housing Bureau~~ City Administrator 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 City Administrator ~~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~~ will not stay the effectiveness of the written determination unless the Code Hearings Officer so directs.

#### 6.08.130 Dedication of Revenue.

(Amended by Ordinance 191736, effective July 1, 2024.)

- A. ~~The~~ Portland Permitting & Development may retain up to ~~four~~ 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~~ 15 percent of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
  2. ~~50~~ 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~~ 35 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.

## Chapter 6.09 Nightly Fee on Short-Term Rentals

(Chapter added by Ordinance 189031, effective August 1, 2018.)

### Sections:

- 6.09.005 Purpose.
- 6.09.010 Definitions.
- 6.09.020 Fee Imposed.
- 6.09.030 Administrative Authority.
- 6.09.040 Due Dates; Returns and Payments.
- 6.09.050 Registration.
- 6.09.060 Penalties and Interest.
- 6.09.070 Administration and Recordkeeping.
- 6.09.080 Deficiency Determinations; Redeterminations.
- 6.09.090 ~~Business License~~ Revenue Division Appeals Board; Hearings Officer; Appeal; Rules.
- 6.09.100 Civil Penalties.

#### 6.09.005 Purpose.

All ~~Booking Agent~~ booking agents and ~~Transient Lodging~~ intermediaries that facilitate the rental of ~~Short-Term Rental~~ 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.

#### 6.09.010 Definitions.

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

- A. ~~“Booking a Agent”~~ has the same meaning as the term defined in Section 6.04.010.
- B. ~~“Division”~~ means for the purposes of this Chapter, the revenue service and program of the City Administrator under Chapter 3.06, of this Code and may be referred to as the “Revenue Division” or “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 City Administrator or their designee who carries out the work of ~~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~~ 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 ~~g~~Guest, but is considered a tenant exercising ~~L~~Long-~~t~~Term ~~o~~Occupancy.

- E. **“Host”** means the owner, agent or person who resides at a ~~Short-Term Rental~~short-term rental or has been designated by the owner, agent or resident of the ~~Short-Term Rental~~short-term rental and who rents out the ~~Short-Term Rental~~short-term rental for transient lodging occupancy either directly or by using a ~~Booking-Agent~~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-~~t~~Term ~~o~~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-~~t~~Term ~~o~~Occupancy established a person’s primary residence for voting and income tax purposes.
- H. **“Transient ~~L~~Lodging ~~o~~Occupancy”** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any ~~Short-Term Rental~~short-term rental or portion thereof. Transient ~~L~~Lodging ~~o~~Occupancy does not establish or change a person’s primary residence.
- I. **“Online ~~b~~Booking ~~s~~Site”** means a hosting or other online website that provides a means through which a ~~Host~~host may offer to rent a ~~Short-Term Rental~~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-~~t~~Term ~~r~~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~~short-term rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow ~~t~~Transient ~~L~~Lodging ~~o~~Occupancy by right or by permit.

- N. **“Transient Lodgings Intermediary”** means any ~~t~~Transient ~~L~~Lodging ~~i~~ntermediary, ~~t~~Transient ~~L~~Lodging ~~t~~Tax ~~c~~ollector or ~~t~~Transient ~~L~~Lodging ~~p~~rovider as defined in ORS 320.300

#### 6.09.020 Fee Imposed.

For the privilege of facilitating a ~~t~~Transient ~~L~~Lodging ~~o~~ccupancy of a ~~Short-Term Rental~~short-term rental within the City of Portland, a ~~Booking Agent~~booking agent or Transient Lodging Intermediary ~~shall~~must pay to the City a fee of \$4 per night for each ~~t~~Transient ~~L~~Lodging ~~o~~ccupancy. This fee is due each night on any occupancy between one and 30 nights at a ~~Short-Term Rental~~short-term rental aAccommodation. 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 ~~g~~uest. This fee may be passed onto the ~~g~~uest if the receipt provided to the ~~g~~uest separately states this nightly fee, identifying the fee as “Portland Housing and Homelessness Fee”. This fee is not assessed on ~~Booking Agent~~booking agents or ~~t~~Transient ~~L~~Lodging ~~i~~ntermediaries who only facilitate the rental of rooms of a ~~Hotel~~hotel defined in Chapter 6.09. Additionally, ~~Booking Agent~~booking agents or ~~t~~Transient ~~L~~Lodging ~~i~~ntermediaries who facilitate the rental of rooms of a ~~Hotel~~hotel as defined in Chapter 6.09, in addition to ~~s~~Short-Term ~~r~~entals are not required to collect this fee on ~~Hotel~~hotel room rentals.

#### 6.09.030 Administrative Authority.

- A. The ~~Revenue Division~~City Administrator 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~~City Administrator.
- B. The ~~City Administrator~~Director may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C. The ~~Director~~City Administrator, as authorized by Charter, 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 will give reasonable notice of the hearing, not less than 10 nor more than 30 days before the hearing. The notice shall will 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 will 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~~ [booking agent](#) or ~~t~~Transient ~~L~~odging ~~i~~ntermediary 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~~ [booking agent](#) or ~~t~~Transient ~~L~~odging ~~i~~ntermediary 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~~ [booking agent](#) or ~~t~~Transient ~~L~~odging ~~i~~ntermediary 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 Agent~~ booking agents and ~~t~~ransient ~~L~~odging ~~i~~ntermediaries that facilitate any ~~Short-Term Rentals~~ short-term rental reservations for ~~t~~ransient ~~L~~odging ~~o~~ccupancy must register with the Division. Failure to register with the Division does not relieve the ~~Booking Agent~~ booking agent or ~~t~~ransient ~~L~~odging ~~i~~ntermediary from the obligation to pay the fee. Registration must state the name under which the ~~Booking Agent~~ booking agent or ~~t~~ransient ~~L~~odging ~~i~~ntermediary 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 ~~d~~elinquency. Any ~~Booking Agent~~ booking agent or ~~t~~ransient ~~L~~odging ~~i~~ntermediary 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 ~~d~~elinquency. Any ~~Booking Agent~~ booking agent or ~~t~~ransient ~~L~~odging ~~i~~ntermediary 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~~ booking agent or ~~t~~ransient ~~L~~odging ~~i~~ntermediary that fails to file or pay any fee imposed by this Chapter will pay interest at the rate of one~~4~~ 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~~will 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 ~~w~~Waiver. Any ~~Booking Agent~~booking agent or ~~t~~Transient ~~L~~Lodging ~~i~~Intermediary that fails to pay the fee within the time stated must pay the fee, penalties and interest assessed; however, the ~~Booking Agent~~booking agent or ~~t~~Transient ~~L~~Lodging ~~i~~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 ~~a~~Agents and ~~t~~Transient ~~L~~Lodging ~~i~~Intermediaries must keep appropriate records, including but not limited to accounting and bank records, detailed transaction information including ~~Short-Term Rental~~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~~booking agent or ~~t~~Transient ~~L~~Lodging ~~i~~Intermediary for a period of ~~five~~5 years and ~~six~~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 Agent~~booking agents or ~~t~~Transient ~~L~~Lodging ~~i~~Intermediaries, after notification by the Division and may investigate the business of the ~~Booking Agent~~booking agent or ~~t~~Transient ~~L~~Lodging ~~i~~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~~will 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~~booking agent or ~~t~~Transient ~~L~~Lodging ~~i~~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 City Administrator ~~Division~~ may assess penalties and interest as set forth in Section 6.09.060.

1. The ~~Booking Agent~~ booking agent or ~~t~~ Transient ~~L~~ Lodging ~~i~~ Intermediary may petition for a redetermination if the petition is filed within 10 days of the postmark date on the written deficiency notice. Nothing prohibits the City Administrator ~~Division~~ from extending the time for petition beyond 10 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 ~~five~~ 5-year limitation above.

**B.** Any ~~Booking Agent~~ booking agent or ~~t~~ Transient ~~L~~ Lodging ~~i~~ 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 City Administrator ~~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 City Administrator ~~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 City Administrator ~~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~~ booking agent or ~~t~~ Transient ~~L~~ Lodging ~~i~~ 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 City Administrator~~Director~~ regarding penalty and interest assessments is final.

**6.09.090 ~~Business License~~ Revenue Division Appeals Board; Hearings Officer; Appeal; Rules.**

Any ~~Booking Agent~~booking agent or ~~t~~Transient ~~Lodging~~ ~~i~~Intermediary aggrieved by a decision of the ~~Division or City Administrator~~Director made pursuant to this Chapter may appeal as allowed in Section 6.04.140 by filing a notice of appeal with the City Administrator~~Division Director~~ within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the ~~Business License~~Revenue Division 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 City Administrator~~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~~will be subject to appeal pursuant to Section 6.09.090.

**Chapter 6.10 Arts Education and Access Income Tax**

**6.10.010 Definitions.**

For the purposes of this paragraph, the following definitions apply unless the context requires a different meaning.

A. Arts teachers means teachers who provide instruction in any arts discipline, including dance, music, theatre, or visual art.

B. Catchment means the geographical area from which an elementary school within a District draws its students.

C. Charter school means a school offering a comprehensive institutional program as defined under ORS Chapter 338. The charter school will be included in the school district if sponsored by the school district or the State Board of Education, provided that

the school district is the fiscal agent for state school funds for the charter school and the charter school has both Portland catchment and Portland K-5 students.

**D. Director** means the Director of the Office of Arts & Culture, or authorized designee.

**E. Gross revenues** means the total of all revenue received by the City from the Arts Education and Access Income Tax without regard to collection, administrative or other costs.

**F. Income-earning resident** means a resident who has income of \$1,000 or more in the tax year.

**G. Net revenues** means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from gross revenues.

**H. Office of Arts & Culture** means the City's office that works with City bureaus, Council offices, and other partners to support the City's vibrant arts and culture ecosystem.

**I. Portland K-5 students** means students that reside within the geographical boundary of the City that attend kindergarten through 5th grade in public schools.

**J. Resident or resident of the City** means:

**1. An individual who is domiciled in this City unless the individual:**

**a. Maintains no permanent place of abode in the City;**

**b. Does maintain a permanent place of abode elsewhere; and**

**c. Spends in the aggregate not more than 30 days in the taxable year in the City; or**

**2. An individual who is not domiciled in the City but maintains a permanent place of abode in the City and spends in the aggregate more than 200 days of the taxable year in the City unless the individual proves that the individual is in the City only for a temporary or transitory purpose. For purposes of this Subsection, a fraction of a calendar day will be counted as a whole day.**

**K. Resident or resident of the City** does not include:

**1. An individual who is a qualified individual under Section 911(d)(1) of the Internal Revenue Code for the tax year;**



2. A spouse of a qualified individual under Section 911(d)(1) of the Internal Revenue Code, if the spouse has a principal place of abode for the tax year that is not located in the City; or

3. A resident alien under Section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under Section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States.

**L. Revenue and Financial Services Division or Division** means, for the purposes of this Chapter, the revenue and financial services and programs of the City Administrator under Portland City Code Chapter 3.06.

**M. Schools** means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.

**N. School districts** means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

### **6.10.020 Tax Imposed.**

A tax of \$35 is imposed on the income of each income-earning resident of the City who is at least eighteen years old. No tax will be imposed on filer(s) within any household that is at or below the federal poverty guidelines established by the federal Department of Health and Human Services for that tax year.

### **6.10.030 Net Revenues Distribution.**

Net revenues will be paid by the Revenue and Financial Services Division to the Arts Education and Access Fund for distribution by the City as follows:

**A.** First, funds will be distributed to the school districts for the purpose of hiring certified arts teachers for elementary school students for kindergarten through 5th grade (K-5). Distribution will be based on a ratio of one teacher for every 500 K-5 students at schools that serve Portland K-5 students, except that charter schools will be funded based on a ratio of one teacher for every 500 Portland K-5 students served by the charter school. Students attending schools that receive no distribution of funds will not be counted. In the event that a school has less than 500 K-5 students, or in the case of charter schools, less than 500 Portland K-5 students, funds will be distributed on a pro rata basis based on the number of students attending that school. Funds will not be distributed to:

1. Elementary schools within the school districts that have no Portland K-5 students; and

2. Elementary schools within the school districts that have Portland K-5 students enrolled, but whose catchment does not overlap with the City's geographical boundaries.

B. Next, funds will be distributed to the Office of Arts & Culture for the purpose of coordinating, supporting, and reporting on arts education services within school districts. Funding may be used for but is not limited to:

1. Employ highly qualified person(s) to work with the school districts in the provision of high-quality arts education;

2. Provide professional development opportunities for certified arts teachers in the school districts;

3. Collect quantitative and qualitative data from school districts as requested by the City and/or oversight committee;

4. Monitor school district performance and report any IGA compliance concerns to the oversight committee;

5. Convene superintendents, curriculum directors, arts teachers, and other school district personnel as needed to coordinate and evaluate high quality arts education in the school districts.

C. Any funds remaining after distribution to the school districts and the City per Subsections 6.10.030 A. and B. will be distributed to the Office of Arts & Culture or its designee. The funds will be spent as follows:

1. Up to 95 percent of the remaining funds will be distributed as grants to support non-profit Portland arts organizations that demonstrate artistic excellence, provide service to the community, show administrative and fiscal competence and provide a wide range of high-quality arts programs to the public. The Office of Arts & Culture or its designee will make the determination as to which arts organizations will be supported. In the event that the Office of Arts & Culture or its designee distributes less than 95 percent of the funds to non-profit Portland arts organizations, the remaining funds will be distributed for the purpose of providing grants and programs as described in Subsection 2. below.

2. A minimum of five percent of the remaining funds will be distributed for grants and programs to non-profit arts organizations, other nonprofits and schools that will give access to high-quality arts experiences to kindergarten through 12th grade students (K-12) and for grants and programs that will make arts and culture experiences available to Portland residents, with particular emphasis on programs directed to communities who are underserved by local arts providers.

3. These funds are in addition to existing and ongoing financial support for the Office of Arts & Culture.

#### **6.10.040 Intergovernmental Agreements.**

The City will execute Intergovernmental Agreements (IGAs) with the school districts and any other contracted partners and require them to provide independently audited financial statements each year that show how the funds received pursuant to this program are spent.

#### **6.10.050 Oversight Committee.**

The Mayor will appoint an oversight committee, subject to Council confirmation, that is representative of the City's diverse communities to ensure the Arts Education and Access Fund is being implemented as required, to review expenditures made and to report their findings in a public record to the City Council on an annual basis. The committee will be comprised of a minimum of 10 and a maximum of 20 members, including, if possible, a member of the Tax Supervising and Conservation Commission.

#### **6.10.060 Audits.**

The City will receive copies of annual independent audits or other documentation regarding expenditures by the school districts each year. The Arts Education and Access Fund also will be part of the City's independent annual audit report, the results of which will be made available to the public.

#### **6.10.070 Effective Dates.**

This tax will be effective beginning with the tax year 2012 and will continue each year thereafter. Payment of the tax each year is due on the date on which state taxes are due, not including any extensions of time that might be requested or received.

#### **6.10.080 Revenue and Financial Services Division Responsibilities.**

The Revenue and Financial Services Division will:

A. Receive the gross revenues derived from the Arts Education and Access Income Tax and distribute the net revenues in accordance with the IGAs. Any balance remaining will be distributed to the Office of Arts & Culture for arts education coordination and grants;

B. Keep accurate records of the funds;

C. Report to the Council by way of a public record on all funds received and directed to the school districts and the Office of Arts & Culture;

D. Adopt administrative rules necessary to implement tax collection and administration.

E. If necessary, contract with public or private agencies to fulfill any of its duties in regard to this Arts Education and Access Income Tax and the Arts Education and Access Fund; and

F. Accept any and all gifts and donations to the Arts Education and Access Fund.

#### **6.10.090 Limitation on Costs.**

A. The administrative budget will be subject to annual Council approval.

B. The Office of Arts & Culture's costs for coordinating, supporting, and reporting on arts education activities in the school districts are capped at 3 percent of net revenues.

#### **6.10.100 Confidentiality.**

A. In accordance with ORS 314.835, except as otherwise specifically by provided by Oregon law or this Section and related rules or written policies, it is unlawful for the Revenue and Financial Services Division or any officer or employee of the division to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of this chapter.

B. It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to this Section to divulge, release or make known in any manner any information submitted or disclosed to the City under the terms of Chapter 6.10 for any purpose other than that specified in the provisions of law authorizing the use or disclosure.

C. No subpoena or judicial order may be issued compelling the Division or any of its officers or employees, or any person who has acquired information pursuant Section or any other provision of state or City law, to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxfiler's liability for any tax imposed under this chapter is to be adjudicated by the court from which the process issues.

D. As used in this Section:

1. "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of the former officer, employee or person.

2. "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number, the amount of refund claimed by or granted to a taxpayer, and whether a report or return has been filed.

E. The Revenue and Financial Services Division may:

1. Furnish any taxfiler, representative authorized to represent the taxfiler or person designated by the taxfiler, upon request of the taxfiler, representative or designee, with a copy of the taxfiler's tax return filed with the Division for any year, or with a copy of any report filed by the taxfiler in connection with the return, or with any other information the Division considers necessary.
2. Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.
3. Disclose a taxfiler's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxfiler identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report or return required in the administration of the tax imposed under Chapter 6.10.

F. Only to the extent necessary to meet the business purpose of the disclosure, the Division also may disclose and give access to information described in Subsection 6.10.100 A. to:

1. The City Attorney, their deputies and subordinate employees, 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, including but not limited to instituting legal actions on unpaid accounts.
2. The Bureau of Technology Services (BTS) or its authorized representative, for the purpose of managing access, security and communications.
3. BTS's printing and distribution employees and agents, for the purpose of printing and mailing notices that may contain confidential information.
4. City Administrator's treasury and accounting employees and agents, for the purpose of performing functions related to the issuance of refunds.
5. The Auditor or their authorized representative, to the extent pursuant to City Charter, Chapter 2, Article 5.
6. Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the Division deems disclosure or access necessary for the performance of the others' duties under contracts or agreements between the Division and the legal entities, in the Division's administration of the tax laws.

G. Each officer or employee of the Division and each person described or referred to in Subsection F. of this Section to whom disclosure or access to the tax information is

given under Subsection B. of this Section or any other provision of law, prior to beginning employment or the performance of duties involving the disclosure or access, will be advised in writing of the provisions of Section 6.10.100, relating to penalties for the violation of Section 6.10.120, and must as a condition of employment or performance of duties execute a certificate for the Division, in a form prescribed by the Division, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of Section 6.10.100.

### **6.10.110 Frivolous Filing, False Filing and Hacking.**

A. A \$250 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 150-316.0652 are hereby adopted by direct reference.

B. A \$250 penalty will be assessed if a taxfiler willfully makes or provides false statements related to their tax return filing.

C. The provisions of Portland City Code Section 7.02.850 regarding hacking apply.

### **6.10.120 Criminal Penalties for Violation of the Arts Tax Law by City Employee or Agent**

Anyone knowingly violating Section 6.10.100 may be punished, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six 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 years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five years thereafter.