

**EXHIBIT A**

Amend the following sections in Chapter 5.73:

**5.73.010 Definitions.**

(Amended by Ordinance Nos. 185827 and 185960, effective May 3, 2013.) For the purposes of this paragraph, the following definitions apply unless the context requires a different meaning.

- A. "Catchment" means the geographical area from which an elementary school within a District draws its students.
- B. "Director" means the Director of the Revenue ~~Bureau~~Division, or authorized designee.
- C. "Gross Revenues" means the total of all revenue received by the City of Portland from the Arts Education and Access Income Tax without regard to collection, administrative or other costs.
- D. "Income-earning resident" means a resident who has income of \$1,000 or more in the tax year.
- E. "Net Revenues" means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from Gross Revenues.
- F. "Portland K-5 Students" means students that reside within the geographical boundary of the City of Portland, Oregon that attend Kindergarten through 5th grade in public schools.
- G. "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 shall be counted as a whole day.

- H. “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.
- I. “Schools” means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.
- J. “School Districts” means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

**5.73.030 Net Revenues Distribution.**

Net Revenues will be paid by the Revenue ~~Bureau~~Division to the Arts Education and Access Fund for distribution by the City as follows:

- A. First, funds shall be distributed to the School Districts for the purpose of hiring certified arts or music education teachers for elementary school students for Kindergarten through 5th grade (K-5). Distribution shall 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 shall 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 shall 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 shall be distributed on a pro rata basis based on the number of students attending that school. Funds shall 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 of Portland’s geographical boundaries.
- B. Any funds remaining after distribution to the School Districts shall be distributed to the Regional Arts & Culture Council (RACC). The City shall execute a contract amendment with RACC to ensure the funds are spent as follows:
1. Up to 95 percent of the remaining funds shall be distributed to RACC for 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. RACC will make the determination as to which arts organizations shall be supported, in accordance with their contract with the City. In the event that RACC distributes less than 95 percent of the funds to non-profit Portland arts organizations, the remaining funds shall be distributed for the purpose of providing grants and programs as described in Subsection 2. below.

2. A minimum of 5 percent of the remaining funds shall be distributed to RACC for the purpose of providing 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 from the City to RACC.

**5.73.080 Revenue ~~Bureau~~Division Responsibilities.**

The Revenue ~~Bureau~~Division shall:

- A. Receive the Gross Revenues derived from the Arts Education and Access Income Tax and distribute the Net Revenues in accordance with the IGAs and RACC contract;
- B. Keep accurate records of the funds;
- C. Report to the City Council by way of a public record on all funds received and directed to the School Districts and RACC;
- 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.

**5.73.090 Limitation on Costs.**

(Amended by Ordinance No. 185960, effective May 3, 2013.)

- A. The Revenue ~~Bureau~~Division's first year start-up costs are capped at \$600,000. Ongoing administrative costs are capped at an average 5 percent or less of Gross Revenues over a five year period.

- B. The City's contract amendment with RACC will require RACC to:
1. Limit any additional RACC arts education coordination costs incurred as a result of receiving funds to a maximum of 3 percent of Net Revenues;
  2. Ensure that highly qualified persons will coordinate and work with the School Districts in the provision of high quality arts and/or music education;
  3. Seek additional funds from other sources for arts education and access to supplement the goals of the Arts Education and Access Fund;
  4. Provide quality oversight to the programs of the School Districts as well as the expenditures made by RACC; and
  5. Coordinate between School Districts and arts organizations to ensure high quality arts education for Portland students.

**5.73.100 Confidentiality.**

(Added by Ordinance No. 185827, effective December 19, 2012.) It is unlawful for any City employee, agent or elected official, or for any person who has acquired financial information pursuant to Chapter 5.73 or the ~~Bureau~~Division's administrative rules to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Arts Education and Access Income Tax, unless otherwise required by law. This Section does not prohibit:

- A. Disclosure to the taxfiler or authorized representative of the taxfiler;
- B. Disclosure of the names and addresses of any persons that paid the Tax;
- C. Disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- D. Disclosure to the City Attorney's Office to obtain payment on unpaid accounts or to receive legal advice; or
- E. Disclosure to an outside collection agency for collection of any unpaid account balance receivable. Assignment to an outside collection agency permits the ~~Bureau~~Division to collect a reasonable collection fee, above and beyond any amount otherwise owed to the ~~Bureau~~Division;
- F. Disclosure as otherwise required by law.

## EXHIBIT B

Amend the following sections in Chapter 6.04:

### 6.04.010 **Definitions.**

(Amended by Ordinance Nos. 162647 and 186985, effective February 20, 2015.) Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. **“Accrual accounting”** means the Operator enters the rent due from a transient on his/her records when the rent is earned, whether or not it is paid.
- B. **“Bed and Breakfast Home”** means a home where a resident individual or family rents out guest bedrooms (no more than two) in their house, which is continually occupied as their primary residence.
- C. **“Bed and Breakfast Inn”** means a home where a resident individual or family rents out guest bedrooms (between three and six) in their house, which is continually occupied as their primary residence.
- D. **“Booking Agent”** means an Operator or any person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:
  - 1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; and/or
  - 2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; and/or
  - 3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy.
- E. **“Bureau Division”** means the Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- F. **“Bureau Division Director”** means the director of the Revenue Division, or his/her designee.

- G. **“Business License Appeals Board”** means a Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- H. **“Cash accounting”** means the operator does not enter the rent due from a transient on his/her records until rent is paid.
- I. **“City Council”** means the City Council of the City of Portland, Oregon.
- J. **“Host”** means the owner or person who resides at the Short-Term Rental or has been designated by the owner or resident to manage the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.
- K. **“Hotel”** means any structure, or any portion of any structure which is occupied or 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, bachelor hotel, lodging house, rooming house, apartment house, house, duplex, condominium, multi-dwelling structure, trailer home, houseboat, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- L. **“Occupancy”** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.
- M. **“Operator”** means the person who is proprietor of the hotel in any capacity. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this Chapter by either the principal or managing agent shall be considered to be compliance by both.
- N. **“Person”** means any individual, firm, partnership, joint venture, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- O. **“Rent”** means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- P. **“Rent package plan”** means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this Chapter shall be the same charge made for rent of the identical room when it is not a part of a package plan.

- Q.** “**Short-Term Rental**” means a house, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging occupancy. Generally, a Short-Term Rental is zoned as residential property.
- R.** “**Tax**” means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he/she is required to report his/her collections.
- S.** “**Transient**” means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered.

**6.04.020 Tax Imposed.**

For the privilege of occupancy in any hotel, each transient shall pay a tax in the amount of 6 percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the operator to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his/her records when rent is collected if the operator keeps his/her records on the cash accounting basis and when earned if the operator keeps his/her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy in mobile home parks or trailer parks.

**6.04.030 Collection of Tax By Operator; Rules for Collection.**

- A.** Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this Chapter, shall collect a tax from the transient. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.
- B.** In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.
- C.** The ~~Bureau~~Division shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be

necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the ~~Bureau~~Division shall give public notice of its intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Chapter to violate rules and regulations duly adopted by the ~~Bureau~~Division.

- D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

#### **6.04.040 Operator's Duties.**

(Amended by Ordinance No. 186985, effective February 20, 2015.)

- A. Each Operator shall collect the tax imposed by this Chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.
- B. An Operator or Booking Agent that directly or indirectly accepts, receives or facilitates payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds that may or may not be transmitted to the operator, owner or other person offering a Short-Term Rental, for the transient lodging occupancy from a transient is required to collect, report and remit transient lodging taxes to the City of Portland in accordance with this Chapter.
- C. Additionally, upon request of the ~~Bureau~~Division for any regulatory or tax administration purpose, Operators, which include Booking Agents, 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, or Host for the location. Any location and related contact information provided under this Subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

#### **6.04.050 Exemptions.**

(Amended by Ordinance No. 162647; effective January 4, 1990.) No tax imposed under this Chapter shall be imposed upon:

- A. Any occupant for more than 30 successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall not be deemed a transient);



- B. Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof, except Bed and Breakfast Homes and Inns;
- C. Any occupant in a hospital room, medical or mental health facility, convalescent home, home for aged people, or a government owned and operated public institution.
- D. Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds;
- E. Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.

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

(Amended by Ordinance No. 186736, effective August 29, 2014.)

- A. Every person engaging or about to engage in business as an operator of a hotel in this City shall register with the ~~Bureau~~Division on a form provided by the ~~Bureau~~Division. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place of business and such other information to facilitate the collection of the tax as the ~~Bureau~~Division may require. The registration shall be signed by the operator.
- B. The ~~Bureau~~Division shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the ~~Bureau~~Division upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all occupants and persons seeking occupancy.
- C. Said certificate shall, among other things, state the following:
  1. The name of the operator;
  2. The address of the hotel;
  3. The date upon which the certificate was issued;

4. “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Portland. This certificate does not constitute a permit.”
- D. Operators of Type A and Type B accessory short-term rentals as described in Section Chapter 33.207 must include their Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No person shall advertise or otherwise represent that an accessory short-term rental has received approval unless that person holds a current, valid permit or Conditional Use case file. Additionally, this Permit Number or Conditional Use case file number shall 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.**

- A. The tax imposed by this Chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on the 15th day of the following month for the preceding 3 months; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The BureauDivision has authority to classify and/or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator’s returns. The initial return under this Chapter may be for less than 3 months preceding the due date; thereafter returns shall be made for the applicable quarterly period.
- B. On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter’s tax collections shall be filed with the BureauDivision. The return shall be filed in such form as the BureauDivision may prescribe by every operator liable for payment of tax.
- C. Returns shall show the amount of tax collected or otherwise due for the related period. The BureauDivision may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- D. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the BureauDivision at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

- E. For good cause, the BureauDivision may extend for not to exceed 1 month the time for making any return or payment of tax. No further extension shall be granted, except by the BureauDivision Director. Any operator to whom an extension is granted shall 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. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall be added to the tax due for computation of penalties described elsewhere in this Chapter.
- F. The BureauDivision, if deemed necessary in order to insure 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.

**6.04.080 Penalties and Interest.**

- 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 prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.
- B. Continued delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the amount of the 10 percent penalty first imposed.
- C. Fraud. If the BureauDivision determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs A and B of this Section.
- D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.
- E. Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein 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.
- F. Petition for waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the operator may petition the BureauDivision Director for waiver and refund of the penalty or any portion thereof and the BureauDivision Director may, if a good and

sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

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

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

- A. Deficiency determinations. If the BureauDivision 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 ten days after service of a deficiency notice from the BureauDivision. The BureauDivision may also determine and assess penalties and interest as set forth in Section 6.04.080.
1. In making a determination, the BureauDivision may offset overpayments, if any, which may have been previously made for a period or periods against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
  2. The BureauDivision shall give to the operator or transient (in the case of a refund request) a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the BureauDivision or as the BureauDivision can best determine if the operator has not provided that information to the BureauDivision. 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 10 days after the BureauDivision serves its written notice. The operator or transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the BureauDivision from extending the time for petition beyond 10 days at its discretion.
  4. Except as provided herein, every deficiency determination shall be made and notice mailed within 3 years after a return was originally filed or subsequently amended, 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.
- B. Operator delay. If the BureauDivision 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 determination will be jeopardized by delay, the BureauDivision may make a determination of the tax or amount of tax required to be collected,

noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the BureauDivision after service of notice thereof; provided, however, the operator may petition, after payment has been made, for a redetermination of the BureauDivision's assessment, if the petition is filed within 10 days from the date of the written notice from the BureauDivision.

**6.04.100 Redeterminations.**

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

- A. Any person against whom a determination is made under Section 6.04.090 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 6.04.090, the determination becomes final at the expiration of the allowable time.
- B. If a petition for redetermination and refund is filed within the allowable period, the BureauDivision Director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing and shall give him/her 10 days notice of the time and place of the hearing. The BureauDivision Director may continue the hearing from time to time as may be necessary.
- C. The BureauDivision Director may decrease or increase the amount of the determination as a result of the hearing and, if an increase is determined, such increase shall be payable immediately after the hearing.
- D. The order or decision of the BureauDivision Director upon a petition for redetermination of redemption and refund becomes final 10 days after service upon the petitioner of notice thereof, unless appeal of such order of decision is filed with the Business License Appeals Board within the 10 days after service of such notice.
- E. No petition for redetermination, redemption or refund or other appeal shall be accepted and no petition or appeal is effective for any purpose unless the operator has first complied with the payment provisions hereof and has paid in full the amount determined to be due by the decision appealed from.

**6.04.110 Security for Collection of Tax.**

(Amended by Ordinance No. 162647; effective January 4, 1990.) The BureauDivision, whenever deemed necessary to insure compliance with this Chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the BureauDivision may determine. The amount of the security shall be fixed by the BureauDivision but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the BureauDivision deems proper. The amount of the security may be increased or decreased by the BureauDivision subject to the limitation herein provided.

**6.04.120 Refunds.**

- A. Refunds by City to operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the BureauDivision under this Chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the BureauDivision within 3 years from the date of payment. The claim shall be made on forms provided by the BureauDivision. If the claim is approved by the BureauDivision, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.
- B. Refunds by City to transient. Whenever the tax required by this Chapter has been collected by the operator, and deposited by the operator with the BureauDivision, and it is later determined that the tax was erroneously or illegally collected or received by the BureauDivision, it may be refunded by the BureauDivision to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the BureauDivision within 3 years from the date of payment.
- C. Refunds by operator to tenant. Whenever the tax required by this Chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as transient. The operator shall account for such collection and refund to the BureauDivision. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this Section.

**6.04.130 Administration.**

- A. Records required from operator, et cetera; form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of 3 years and 6 months after they come into being.
- B. Examination of records; investigations. The BureauDivision, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- C. At any time within 3 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 3 years after any determination becomes final, the BureauDivision 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 delinquent together with penalties and interest.

- D. Confidential financial information. Except as otherwise required by law, it shall be unlawful for the BureauDivision, the Auditor, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the BureauDivision under the terms of Chapter 6.04, Transient Lodgings Tax. Nothing in this subsection shall be construed to prohibit:
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 business license fees; or
  2. The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the BureauDivision Manager; or
  3. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued; or
  4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
  5. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the BureauDivision deems disclosure or access necessary for the performance of the duties of advising or representing the BureauDivision.

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

(Replaced by Ordinance No. 184772, effective August 26, 2011.) The Business License Appeals Board shall have power and it shall be its duty:

- A. Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the BureauDivision or BureauDivision Director made upon petitions for redetermination of tax. 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 BureauDivision or BureauDivision Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of a notice of the BureauDivision or BureauDivision Director's decision and shall file a copy of each such determination with the BureauDivision. Such determination shall 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

~~Bureau~~Division in like manner as an order or decision of the ~~Bureau~~Division or ~~Bureau~~Division Director.

- B.** For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C.** An appeal involving an amount in controversy greater than \$50,000 shall be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board. The Hearings Officer shall be appointed by the City Attorney, shall be a member of the Oregon State Bar and shall not be a City employee.
- D.** In appeal hearings held before a Hearings Officer, the appellant and the City's representative shall 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 shall 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 shall have 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 shall 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 shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and



competent evidence. The Hearings Officer shall 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 shall be made on all motions, rulings, and testimony if requested by any party. The record shall be transcribed for the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript shall 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 shall not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest found to be duly imposed.
- K. The decision of the Hearings Officer shall be issued in writing in a final order. The final order shall become final on the date specified in the order, which date shall be within 30 days after the conclusion of the hearing. The decision shall be the final administrative remedy of the appellant. Any amounts due shall be payable to the City Treasurer within 10 days of the order becoming final. The Hearings Officer shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

**6.04.150 Appeal to Business License Appeals Board, Hearings Officer.**

(Replaced by Ordinance No. 184772, effective August 26, 2011.) Any operator or transient aggrieved by a decision of the ~~Bureau~~Division Director made pursuant to Section 6.04.100 may appeal to the Business License Appeals Board or Hearings Officer as allowed in Section 6.04.140 by filing a notice of appeal with the ~~Bureau~~Division Director within 10 days of the service of the notice of a Director's decision. Any hearing shall be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals.

**6.04.160 Appeals to City Council.**

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

**6.04.170 Violations.**

(Amended by Ordinance No. 186985, effective February 20, 2015.) It is unlawful for any Operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or any other data required by the ~~Bureau~~Division or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due

required by this Chapter. The Bureau Director may impose a civil penalty of up to \$500 for each violation of this Chapter. A violation includes, but is not limited to:

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

## EXHIBIT C

Amend the following section in Chapter 6.05:

### 6.05.020 Definitions.

- A. “BureauDivision” means the Revenue BureauDivision of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- B. “BureauDivision Director” and “Director” mean the Director of the Revenue BureauDivision of the City of Portland Bureau of Revenue and Financial Services, or his or her designee;
- C. “District” means the Portland Tourism Improvement District as described in this Chapter;
- D. “Notice” means a written document mailed by the BureauDivision by first class mail to the last known address of a hotel as provided to the BureauDivision in the latest application or return on file at the BureauDivision; 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 BureauDivision in the latest business license tax return on file at the BureauDivision or, if none, then to such address as may be determined following reasonable investigation;
- E. “Hotel” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- F. “Engaged in hotel management activities” means:
  - 1. Being financially responsible for a water service provided to a hotel;
  - 2. Being financially responsible for operation of a hotel business;
  - 3. Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
    - a. Being responsible for waste disposal service provided to a hotel;
    - b. Being responsible for providing fire insurance for a hotel;

- c. Being responsible for repair and maintenance of a hotel;
  - e. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a hotel; and
  - f. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a hotel.
- G.** "City Council" means the City Council of the City of Portland, Oregon.
- H.** "Rent" means the consideration charged by the hotel, whether or not received by the hotel, for the occupancy of guest rooms only, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- I.** "Management Corporation" means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- J.** "Person" means a natural person, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in hotel management activities within the District.
- K.** "Licensee" means a person licensed to engage in hotel management activities within the District under this Chapter.

**EXHIBIT D**

Amend the following sections in Chapter 6.06:

**6.06.020 Definitions.**

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) Unless the context requires otherwise, the terms used in this Chapter will be defined as follows:

- A. “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B. “Bureau Division” means the Revenue Bureau Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. “Business property” means real property that is not residential property and is not exempt property. If real property in the District in part is residential or exempt property and in part is neither residential nor exempt property, then “business property” is that portion of the real property that is neither residential nor exempt property, including a proportionate share of the land. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property;
- D. “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, not seasonally adjusted, as published semi-annually by the United States Bureau of Labor Statistics;
- E. “CPI-W adjustment factor” for a license year means the fraction in which the numerator is the CPI-W HALF1 immediately preceding the commencement of that license fee year and the denominator is the CPI-W for HALF1 for 2011;
- F. “District” means an enhanced services district as described in this Chapter;
- G. “Elevator capacity” means the pounds of elevator capacity for elevators type PXH, PXVE, and PXE as recorded in the records of the Building Codes Division of the Oregon Department of Consumer and Business Services;
- H. “Engaged in property management activities” means:

1. Being financially responsible for a water service provided to a building or, if there is no building on property, to land within the District, in the event there is a single water service serving the property;
2. Being financially responsible for operation of a business or a residential use that exclusively occupies a building or, if there is no building on property, land within the District, in the event there is no water service serving the property;
3. Being financially primarily responsible for the indicia of management of property within the District, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
  - a. Being responsible for a water service provided to common areas of a building;
  - b. Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;
  - c. Being responsible for providing fire insurance for a building;
  - d. Being responsible for repair and maintenance of a building;
  - e. Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and
  - f. Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
4. Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out will not constitute being “engaged in property management activities.”

I. “Exempt property” means:

1. Mass shelters, as defined in Chapter 33.910 of this Code;
2. Property owned or being purchased by religious organizations including:
  - a. Houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips, and furniture therein. However, “exempt property”



County Office of Assessment and Taxation or, if not so recorded, as measured using the same method as used by the Multnomah County Office of Assessment and Taxation.

**6.06.240 Request Annual CPI Increase to be Different than Calculated.**

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

- A.** The contractor's Board of Directors may recommend that the annual CPI adjustment be set to an amount other than the CPI calculation, but not less than zero for a license year.
- 1.** The Board must pass a resolution during a regular board meeting and submit the resolution, any minutes from the meeting and the results of the vote to the Revenue ~~Bureau~~Division no later than June 10th. The resolution must contain the following information:
    - a.** The reason why the board is requesting the annual CPI adjustment to be set at a rate that is different than calculated;
    - b.** What the CPI adjustment amount for the license year should be; and
    - c.** The impact on the upcoming budget that will result if a different CPI adjustment is made, specifically as it relates to contract employee wages and contract service levels.
    - d.** The impact to District services.
  - 2.** The Revenue ~~Bureau~~Division will review the information from the contractor's Board of Directors and evaluate impacts to contract employee wages to ensure wages for these employees do not decrease inappropriately as a result of a lower CPI adjustment. The Revenue ~~Bureau~~Division will make a recommendation to City Council if a different CPI adjustment is warranted for the upcoming license year.
  - 3.** City Council must approve a different CPI adjustment prior to August 1st;
  - 4.** An approved different CPI adjustment will apply to the license year that begins on October 1st.
- B.** Once one or more different CPI adjustments have been approved by City Council, the Revenue ~~Bureau~~Division has authority to adjust the CPI component in the fee rate formulas in Subsections 6.06.200 A.9., and 6.06.210 A.6. The Revenue ~~Bureau~~Division will document via written policy all changes to the CPI calculation as a result of City Council approval and this policy will supersede the calculation defined in Subsection 6.06.020 E.



**6.06.270 Revisions to License Fee Year Schedule.**

(Amended by Ordinance Nos. 178073, 185495 and 186356, effective November 27, 2013.) Notwithstanding that Sections 6.06.010 through 6.06.180 are based on a license fee year of October 1 through September 30, the license fee year for the Lloyd District will be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the due dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd District, will be February 15 and September 15 except that the August 1 date set out in Section 6.06.090 will be January 5. Any other dates are also changed to provide at least 30 days notice before a due date and may be clarified by the Revenue ~~Bureau~~Division in a written policy.

**6.06.300 Request That Annual Lloyd District Escalator Be Lowered.**

(Added by Ordinance No. 186356, effective November 27, 2013.)

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

- B.** City Council's approval to decrease the annual escalator for any given year has no effect on future years, and the District contractor's Board must follow the process outlined in Subsection A.1. of this Section for each year it wishes to recommend a rate lower than the prescribed 2.3 percent escalator.

Amend the following sections in Chapter 7.02:

**7.02.020 Conformity to State Income Tax Laws.**

The Business License Law is construed in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income. Any reference in this Chapter to the laws of the State of Oregon means the laws of the State of Oregon imposing taxes on or measured by net income as those laws existed for that particular tax year. The BureauDivision has the authority by written policy to connect to and/or disconnect from any legislative enactment that deals with income or excise taxation or the definition of net income. Should a question arise under the Business License Law on which this Chapter is silent, the BureauDivision may look to the laws of the State of Oregon for guidance in resolving the question, provided that the determination under State law is not in conflict with any provision of this Chapter or the State law is otherwise inapplicable.

**7.02.100 Definitions.**

(Amended by Ordinance No. 184597, effective June 17, 2011.) The terms used in this Chapter are defined as provided in this section or in Administrative Rules adopted under Section 7.02.210, unless the context requires otherwise:

- A. “BureauDivision” means the Revenue BureauDivision of the City of Portland, Oregon Bureau of Revenue and Financial Services, along with its employees and agents.
- B. “Business tax” means the tax owed by a taxfiler for any particular license tax year.
- C. “Business” means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain, or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.
- D. “Certificate of Compliance” means the document (or license) issued to a taxfiler upon full compliance with the Business License Law for the license tax year in question.
- E. “Controlling Shareholder” means any person, alone or together with that person’s spouse, parents, and/or children, who, directly or indirectly, owns more than five (5) percent of any class of outstanding stock or securities of the taxfiler. The term “controlling shareholder” may mean the controlling shareholder individually or in the aggregate.
- F. “Day” means a calendar day unless otherwise noted.
- G. “Director” means the Director of the Revenue BureauDivision or his or her designee.

- H. “Doing Business” means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on his or her own behalf.
- I. “Employee” means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W-2.
- J. “In Compliance” means that:
1. a non-exempt business has filed and paid the current year’s required business tax; or
  2. a non-exempt business has filed and paid the previous year’s required business tax and has met the current year filing requirements; or
  3. an exempt business has filed the required income verification; or
  4. a new business has filed a completed registration form and is otherwise in compliance with all provisions of the Business License Law.
- K. “Income” means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back.
- L. “Individual” means a natural person, including natural persons who report their income to the State of Oregon in a joint personal state income tax return. In such case, the term “individual” shall refer to the joint taxfiler.
- M. “License Tax Year” means the taxable year of a person for federal or state income tax purposes.
- N. “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.
- O. “Non-business Income” means income not created in the course of the taxfiler’s business activities.
- P. “Notice” means a written document mailed first class by the ~~Bureau~~Division to the last known address of a taxfiler as provided to the ~~Bureau~~Division in the latest registration form or tax return on file with the ~~Bureau~~Division.
- Q. “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.

- R. "Person" includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
- S. "Received" means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.
- T. "Registration Form" means the initial form that establishes a taxfiler's account with the Bureau Division.
- U. "Tax return" means any tax return filed by or due from the taxfiler, including an annual exemption request form.
- V. "Tax Year" means the taxable year of a person for Federal and/or State income tax purposes.
- W. "Taxfiler" means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

#### **7.02.110 Income Defined.**

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, trusts and joint ventures (including tenants-in-common arrangements) are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.
- B. If one or more persons are required or elect to report their income to the State of Oregon for corporation excise or income tax purposes or personal income tax purposes in a consolidated, combined or joint return, a single license certificate will be issued to the person filing such return. In such cases, "income" means the net income of the consolidated, combined or joint group of tax filers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carry-forward or carry-back.
- C. The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Bureau Division to determine the correct income of the taxfiler through examination under Section 7.02.260.

#### **7.02.200 Administration.**

- A. The ~~Bureau~~Division is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the Division.
- B. The ~~Bureau~~Division may, upon request, interpret how the Business License Law applies, in general or for a certain set of circumstances.
- C. Nothing in this Chapter precludes the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.

**7.02.210 Administrative Authority.**

- A. The Director may implement procedures, forms, and written policies for administering the provisions of the Business License Law.
- B. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Business License Law.
- C. Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director will publish a notice in a newspaper of general circulation in the City. The notice must be published not less than ten nor more than thirty days before the hearing, and it 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.
- D. At the public hearing, the Director or designee will receive oral and 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. If a substantial modification is made, additional public review will be conducted, but no additional public notice is 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 are effective upon adoption by the Director. All rules adopted by the Director will be filed in the ~~Bureau~~Division's office. Copies of all current rules will be made available to the public upon request.
- E. Notwithstanding Subsections C. and D. of this Section, 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, stating the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph is effective for a period of not longer than 180 days.

**7.02.230 Confidentiality.**

(Amended by Ordinance No. 185312, effective May 9, 2012.) It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to Section 7.02.240 A. and C., to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of the Business License Law, unless otherwise required by law. Additionally, it is unlawful to

divulge, release or make known in any manner identifying information about any taxpayer applying for tax amnesty, including, but not limited to, the name and address of the taxpayer, unless otherwise required by law. Except as noted above, this Section does not prohibit:

- A. The disclosure of the names and addresses of any persons that have a BureauDivision account;
- B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C. The filing of any legal action by or on behalf of the BureauDivision to obtain payment on unpaid accounts; or
- D. The assignment to an outside collection agency of any unpaid account balance receivable, provided that the BureauDivision notifies the taxfiler of the unpaid balance at least 60 days prior to the assignment of the claim. Any assignment to an outside collection agency is subject to a reasonable collection fee, above and beyond any amount owed to the BureauDivision.

**7.02.240 Persons to Whom Information May be Furnished.**

- A. The BureauDivision may disclose and give access to information described in Section 7.02.230 to an authorized representative of the Department of Revenue, State of Oregon , or any local government of the State of Oregon imposing taxes upon or measured by gross receipts or net income, for the following purposes:
  - 1. To inspect the license registration or tax return of any taxfiler;
  - 2. To obtain an abstract or copy of the license registration or tax return;
  - 3. To obtain information concerning any item contained in any registration or tax return; or
  - 4. To obtain information of any financial audit of any tax returns of any taxfiler.

Such disclosure and access will be granted only if the laws, regulations or practices of such other jurisdiction maintain the confidentiality of such information at least to the extent provided by the Business License Law.

- B. Upon request of a taxfiler, or authorized representative, the BureauDivision will provide copies of the taxfiler's registration and/or tax returns filed with the BureauDivision for any license tax year.
- C. The BureauDivision may also disclose and give access to information described in Section 7.02.230 to:
  - 1. The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the BureauDivision deems

disclosure or access necessary for the performance of the duties of advising or representing the BureauDivision, including but not limited to instituting legal actions on unpaid accounts.

2. Other employees, agents and officials of the City, to the extent the BureauDivision 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 BureauDivision and any other department, bureau, agency or subdivision of the City relating to the administration of the Business License Law, or
    - c. aid in determining whether a BureauDivision account is in compliance with all City, State and Federal laws or policies.
- D. Officials, employees and agents of the BureauDivision or City, prior to the performance of duties involving access to financial information submitted to the BureauDivision under the terms of the Business License Law, must be advised in writing of the provision of Section 7.02.730 relating to penalties for the violation of Sections 7.02.230 and 7.02.255. Such employees, agents and officials must execute a certificate in a form prescribed by the BureauDivision, stating that the person has reviewed these provisions of law and is aware of the penalties for the violation of Sections 7.02.230 and 7.02.255.
- E. Prior to any disclosures permitted by this Section, all persons described in Subsection A. above, to whom disclosure or access to financial information is given, must:
1. Be advised in writing of the provisions of Section 7.02.730 relating to penalties for the violation of Section 7.02.230; and
  2. Execute a certificate, in a form prescribed by the BureauDivision, stating these provisions of law have been reviewed and they are aware of the penalties for the violation of Section 7.02.230.

**7.02.250 Taxfiler Representation.**

No person will be recognized as representing any taxfiler in regard to any matter relating to the tax of such taxfiler without written authorization of the taxfiler or unless the BureauDivision determines from other available information the person has authority to represent the taxfiler.

**7.02.255 Representation Restrictions.**

- A. No employee or official of the City may represent any taxfiler in any matter before the BureauDivision. The restriction against taxfiler representation continues for two years after termination of employment or official status.



- B.** Members of the Appeals Board, as described in Section 7.02.295 of the Business License Law can not represent a taxfiler before the Appeals Board. No member of the Appeals Board can participate in any matter before the Board if the appellant is a client of the member or the member's firm.

**7.02.260 Information Request; Examination of Books, Records or Persons.**

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A.** The ~~Bureau~~Division may request information or examine any books, papers, records or memoranda, including state and federal income or excise tax returns, to ascertain the correctness of any license registration or tax return, or to make an estimate of any business tax. The ~~Bureau~~Division has the authority, after notice, to:
1. Require the attendance of any person subject to the requirements of the Business License Law, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the ~~Bureau~~Division may designate;
  2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
  3. Require proof for the information sought, necessary to carry out the provisions of this Chapter.
  4. Require the property manager of a tenants-in-common arrangement to provide financial information related to the arrangement as well as information regarding the owners, including but not limited to the name and last known address of the owners.
- B.** The Director will designate the employees that have the power to administer oaths hereunder. Such employees must be notaries public of the State of Oregon.
- C.** The ~~Bureau~~Division may require contact information, including but not limited to, business phone numbers and business email addresses for all officers and/or owners of businesses doing business in the City of Portland. This information may be used by the City for any lawful purpose.

**7.02.280 Deficiencies and Refunds.**

- A.** Deficiencies may be assessed and refunds granted any time within the period provided under ORS 314.410, ORS 314.415, and ORS 317.950. The ~~Bureau~~Division may by agreement with the taxfiler extend such time periods to the same extent as provided by statute.
- B.** Consistent with ORS 314.410 (~~34~~), in cases where no tax return has been filed, there is no time limit for a notice of deficiency and/or the assessment of taxes, penalty, and interest due.

- C. Notwithstanding Subsections A. and B., the BureauDivision is not required to accept any tax return from a taxfiler if:
  1. The BureauDivision obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
  2. The BureauDivision or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
  3. The tax return is for a taxable year that is the subject of the money judgment; and
  4. The BureauDivision gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the BureauDivision (or its designee) filed a lawsuit for those particular tax years.

**7.02.290 Protests and Appeals.**

- A. Any determination by the BureauDivision may be protested by the taxfiler. Written notice of the protest must be received by the BureauDivision within 30 days after the BureauDivision mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the grounds for the protest. The BureauDivision must respond within 30 days after the protest is filed with either a revised determination or a final determination. The BureauDivision's determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the BureauDivision's response may be extended by the BureauDivision for good cause. Requests for extensions of time must be received prior to the expiration of the original 30 day protest deadline. Written notice will be given to the taxfiler if the BureauDivision's deadline is extended.
- B. Any final determination by the BureauDivision may be appealed by the taxfiler to the Business License Appeals Board (the "Appeals Board"). Written notice of the appeal must be received by the BureauDivision within 30 days after the BureauDivision mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appealing taxfiler ("appellant") and include a copy of the final determination.
- C. Within 90 days after the BureauDivision mails or delivers the final determination to the appellant, the appellant must file with the Appeals Board a written statement containing:
  1. The reasons the BureauDivision's determination is incorrect, and
  2. What the correct determination should be.

Failure to file such a written statement within the time permitted will be deemed a waiver of any objections, and the appeal will be dismissed.

- D. Within 150 days after the BureauDivision mails or delivers the final determination to the appellant, the BureauDivision must file with the Appeals Board a written response to the appellant's statement. A copy of the BureauDivision's response must be mailed to the address provided by the appellant within 10 days.
- E. The BureauDivision must provide the appellant written notice of the hearing date and location at least 14 days prior to the hearing. The appellant and the BureauDivision may present relevant testimony and oral argument at the hearing. The Appeals Board may request additional written comment and documents as it deems appropriate.
- F. Decisions of the Appeals Board must be in writing, state the basis for the decision and be signed by the Appeals Board Chair.
- G. The decision of the Appeals Board is final as of the issue date and no further administrative appeal will be provided.
- H. The filing of an appeal with the Appeals Board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the Appeals Board.
- I. Penalty waiver and/or reduction requests are not subject to the protest/appeal process or timeline outlined in Sections 7.02.290 A. through 7.02.290 H.. The taxfiler must file a written request with the BureauDivision detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The BureauDivision must respond to requests to reduce and/or waive penalties within 60 days from the date the written request is received. As provided in Section 7.02.700 G., the BureauDivision may waive or reduce penalties in certain situations. If the taxpayer has requested that penalties be waived and the BureauDivision denies the taxpayer's request for this discretionary waiver of penalties, the taxpayer may request a conference with the Director (or designee) within 30 days of the date of the BureauDivision's notice of denial. If the conference with the Director results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Business License Appeals Board.

**7.02.295 Business License Appeals Board.**

The Business License Appeals Board (the "Appeals Board") hears appeals and consists of the following members:

- A. A member of the public appointed by the City Auditor for a two year term that expires every even year.
- B. A member of the public appointed by the elected official in Charge of the BureauDivision, (whether that elected official is the Mayor or a Commissioner) for a two year term that expires every odd year.
- C. Three members of the public appointed by the Mayor, subject to confirmation by the City Council. In making the initial appointments, one member will be

appointed for one year, one for two years and one for three years. After making the initial appointments, each member will serve for a term of three years.

- D. Appointments to the Business License Appeals Board must provide for an appropriate level of expertise in accounting methods and tax regulation.
- E. No employee or agent of the City may be appointed to or serve on the Business License Appeals Board.

**7.02.300 Certificates of Compliance.**

(Amended by Ordinance No. 183727, effective May 28, 2010.)

- A. Within 60 days of beginning business, the taxfiler must complete a registration form. The ~~Bureau~~Division may issue or otherwise provide access to either an electronic or printed "Certificate of Compliance" upon registration to assist businesses in proving their compliance to regulatory agencies or to the public. Subsequently, after each year's tax filing the ~~Bureau~~Division may issue or otherwise provide access to either an electronic or printed Certificate of Compliance indicating that the taxfiler is in compliance with the City's Business License Tax Law as of a particular date.
- B. The City's issuance of a "Certificate of Compliance" does not entitle a taxfiler to carry on any business not in compliance with all other requirements of this Code and all other applicable laws.
- C. A taxfiler is deemed to be doing business within the City within any fiscal year he or she receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

**7.02.310 Duplicate Certificates of Compliance.**

Upon request by the taxfiler a duplicate Certificate of Compliance may be issued to replace any Certificate previously issued that has been lost or destroyed. Duplicate Certificates will be issued in accordance with the ~~Bureau~~Division's written policy.

**7.02.400 Exemptions.**

(Amended by Ordinance Nos. 183727 and 185394, effective July 6, 2012.) The ~~Bureau~~Division may require the filings of tax returns or other documentary verification of any exemption claimed under this section. To the extent set forth below, the following persons are exempt from payment of the business license tax, and/or the following incomes are exempt from calculation of the business license tax:

- A. Persons whom the City is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.

- B.** Income arising from transactions which the City is prohibited from taxing under the Constitution or the laws of the United States, the Constitution or laws of the State of Oregon, or the Charter of the City.
- C.** Persons whose gross receipts from all business, both within and without the City, amounts to less than \$50,000 (\$25,000 for tax years that begin prior to January 1, 2007).
- D.** Corporations exempt from the Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a business tax based solely on such income.
- E.** Trusts exempt from Federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501 (b), must pay a business tax based solely on that income.
- F.** The following incomes of an individual:
1. Income from sales, exchanges or involuntary conversions of a primary residence;
  2. Income from the sale of personal property acquired for household or other personal use by the seller;
  3. Income from interest and dividend income earned from investments if the income is not created in the course of or related to the taxfiler's business activities;
  4. Income from gains and losses incurred from the sale of investments (other than real property) that are not a part of a business.
- G.** Any person whose only business transactions are exclusively limited to the following activities:
1. Raising, harvesting and selling of the person's own crops, or the feeding, breeding, management and sale of the person's own livestock, poultry, furbearing animals or honeybees, or sale of the produce thereof, or any other agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and the sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this subsection, the person does any processing of the person's own farm products which changes their character or form, or the person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others; or the processing of milk or milk products whether produced by said person or by others for retail or wholesale distribution.

2. Operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.

1. H. Gross ~~incomes~~revenues subject to Chapters 7.12 or 7.14. Unless otherwise prohibited by law, ~~income~~gross revenue which is not otherwise subject to Chapters 7.12 or 7.14 is subject to the Business License Law.

**7.02.510 Registration Form and Tax Return Due Dates.**

(Amended by Ordinance No. 183727, effective May 28, 2010.)

A. All persons subject to the requirements of this Chapter must register with the BureauDivision on a form provided or approved by the BureauDivision. Thereafter, taxfilers must file tax returns with the BureauDivision. The following timing requirements apply:

- 1. Registration forms must be filed within 60 days of the person beginning business in the City.
- 2. Tax returns must be filed by the 15th day of the fourth (4th) month following the end of the tax year. For cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the BureauDivision must conform to the due date under Oregon tax law.

B. The BureauDivision may, for good cause, grant extensions for filing tax returns, except that no extension may be granted for more than six (6) months beyond the initial filing due date. This extension does not extend the time to pay the tax.

C. Registration forms and tax returns must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.

D. The Division will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

**7.02.530 Schedule for Payment of Estimated Tax.**

A taxfiler required under Section 7.02.520 to make payments of estimated business taxes must make the payments in installments as follows:

- A. One quarter or more of the estimated tax on or before the 15th day of the fourth (4th) month of the tax year; and
- B. One quarter or more of the estimated tax on or before the 15th day of the sixth (6th) month of the tax year; and
- C. One quarter or more of the estimated tax on or before the 15th day of the ninth (9th) month of the tax year; and

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

**7.02.550 Presumptive Tax.**

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

**7.02.560 Payment Plan Fee.**

If a person fails to pay the business tax when due, the Bureau Division may establish a payment plan and charge a set up fee pursuant to written policy.

**7.02.600 Income Determinations.**

(Amended by Ordinance Nos. 183727, 185781 and 186331, effective December 13, 2013.)

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

described above.

2. For tax years beginning on or after January 1, 2013, the Owners Compensation Deduction cannot exceed \$90,500 per owner as defined in Subsections B., C. and D. below.
3. For tax years beginning on or after January 1, 2014, the Owners Compensation Deduction cannot exceed \$100,000 per owner as defined in Subsections B., C. and D. below. For tax years beginning on or after January 1, 2015, the Owners Compensation Deduction will be indexed as described above.

**B. Sole Proprietorships.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, owners. However, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per owner.

**C. Partnerships.** In determining income, no deductions are allowed for any compensation for services rendered by, or interest paid to, owners of partnerships, limited partnerships, limited liability companies, limited liability partnerships, or family limited partnerships. Guaranteed payments to partners or members are deemed compensation paid to owners for services rendered. However:

1. For general partners or members, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the amounts listed in Subsection A. per general partner or member.
2. For limited partners or members of LLCs who are deemed limited partners by administrative rule or policy, 75 percent of income determined without such deductions is allowed as an additional deduction, not to exceed the lesser of actual compensation and interest paid or the amounts listed in Subsection A. per compensated limited partner.

**D. Corporations.** In determining income, no deduction is allowed for any compensation for services rendered by, or interest paid to, controlling shareholders of any corporation, including but not limited to, C and S corporations and any other entity electing treatment as a corporation, either C or S. However, 75 percent of the corporation's income, determined without deduction of compensation or interest, is allowed as a deduction in addition to any other allowable deductions, not to exceed the lesser of the actual compensation and interest paid or the amounts listed in Subsection A. for each controlling shareholder.

1. For purposes of this Subsection, to calculate the compensation for services rendered by or interest paid to controlling shareholders that must be added back to income, wages, salaries, fees or interest paid to all persons meeting the definition of a controlling shareholder must be included.
2. For purposes of this Subsection, in determining the number of controlling shareholders, a controlling shareholder and that person's spouse, parents



and children count as one owner, unless such spouse, parent or child individually control more than five (5) percent ownership of outstanding stock or securities in their own name. In that case, each spouse, parent or child who owns more than five (5) percent of stock is deemed to be an additional controlling shareholder.

3. For purposes of this Subsection, joint ownership of outstanding stock or securities is not considered separate ownership.

**E. Estates and Trusts.** In determining income for estates and trusts, income is measured before distribution of profits to beneficiaries. No additional deduction is allowed.

**F. Non-business Income.** In determining income under this Section, an allocation is allowed for non-business income as reported to the State of Oregon. However, income treated as non-business income for State of Oregon tax purposes may not necessarily be defined as non-business income under the Business License Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business is treated as business income for purposes of the Business License Law. Income derived from non-unitary business functions reported at the State of Oregon level may be considered non-business income. Non-unitary income will not be recognized at an intrastate level. The taxfiler has the burden of showing that income is non-business income.

**G. Taxes Based on or Measured by Net Income.** In determining income, no deduction is allowed for taxes based on or measured by net income. No deduction is allowed for the federal built-in gains tax.

**H. Ordinary Gain or Loss.** In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property not exempt under Subsections 7.02.400 G. and H. must be included as ordinary gain or loss.

**I. Net Operating Loss.** In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75 percent of the income determined for the current license tax year before this deduction, but after all other deductions from income allowed by this Section and apportioned for business activity both within and without the City of Portland.

1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. However, in no case may a net operating loss be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax.

2. In computing the net operating loss for any license tax year, the net operating loss of a prior year is not allowed as a deduction.

3. In computing the net operating loss for any license or tax year, no compensation allowance deduction is allowed to increase the net operating loss. "Compensation allowance deduction" is defined in Subsection 7.02.600 A.
4. The net operating loss of the earliest license tax year available must be exhausted before a net operating loss from a later year may be deducted.
5. The net operating loss in any license tax year is allowed as a deduction in the five (5) succeeding license tax years until used or expired. Any partial license tax year will be treated the same as a full license tax year in determining the appropriate carry-forward period.

**7.02.610 Apportionment of Income.**

(Amended by Ordinance Nos. 182427 and 184597, effective June 17, 2011.)

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

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

**7.02.620 Changes to Federal and/or State Tax Returns.**

- A. If a taxfiler's reported net income under applicable Oregon laws imposing a tax on or measured by income is changed by the federal Internal Revenue Service or the Oregon Department of Revenue, or amended by the taxfiler to correct an error in the original federal or state return, a report of such change must be filed with the Bureau Division within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the federal or state agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- B. The Bureau Division may assess deficiencies and grant refunds resulting from changes to federal, state, city or county tax returns within the time periods provided for in Section 7.02.280, treating the report of change in federal, state, city or county tax returns as the filing of an amended tax return.
- C. The Bureau Division may assess penalties and interest on the additional tax due as provided in Subsection 7.02.700 A. and 7.02.710 A., or may refuse to grant a refund of business taxes as a result of the amended tax return if the amended tax

return is not filed with the ~~Bureau~~Division within the time limits set forth in Subsection A.

**7.02.700 Penalties.**

- A.** A penalty will be assessed if a person:
1. Fails to file a tax return or extension request at the time required under Subsections 7.02.510 A. or 7.02.620 A.; or
  2. Fails to pay the tax when due.
  3. The penalty under Subsection A. is:
    - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months;
    - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more; and
    - c. An additional penalty of 100 percent (1.00) of the total tax liability of all license tax years if the failure to file is for three (3) or more consecutive license tax years.
- B.** A penalty will be assessed if a person who has filed an extension request:
1. Fails to file a tax return by the extended due date; or
  2. Fails to pay the tax liability by the extended due date.
  3. The penalty under Subsection B. is:
    - a. Five percent (0.05) of the total tax liability, but not less than \$5, if the failure is for a period less than four (4) months; and
    - b. An additional penalty of 20 percent (0.20) of the total tax liability if the failure is for a period of four (4) months or more.
- C.** A penalty will be assessed if a person:
1. Fails to pay at least 90 percent (0.90) of the total tax liability, but not less than \$100, by the original due date; or
  2. Fails to pay at least 100 percent (1.00) of the prior year's total tax liability by the original due date.
  3. The penalty under Subsection C. is five percent (.05) of the tax underpayment, but not less than \$5.

- D. A penalty of \$100.00 may be assessed if a person fails to file a registration form at the time required under Subsection 7.02.510 A.
- E. The Director may impose a civil penalty of up to \$500 for each of the following violations of the Business License Law:
1. Failure to file any tax return within 60 days from the due date as further outlined in Section 7.02.510 of this Chapter; or
  2. Failure to pay any tax within 60 days of the BureauDivision's original written notice for payment; or
  3. Failure to provide either documents or information (as required by Section 7.02.260) within 60 days of the BureauDivision's original written notice to provide the documents or information; or
  4. Failure to fully complete any form required under this Chapter.
- F. The Director may impose a civil penalty under Subsections E.2. and E.3. only if the BureauDivision gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- G. The BureauDivision may waive or reduce any penalty determined under Subsections A. through E. for good cause, according to and consistent with written policies.

**7.02.710 Interest.**

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

- D. For purposes of Subsection B., the amount of underpayment is determined by comparing the 90 percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if 100 percent of the prior year's total tax liability is paid to the BureauDivision by the due date of the fourth quarterly payment, the BureauDivision may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- E. For purposes of Subsection A. of this Section, the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Subsection 7.02.510 A. or Section 7.02.530.
- F. Interest at the rate specified in Subsection A. of this Section accrues from the original due date without regard to any extensions of the filing date.
- G. Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the BureauDivision, unless specifically provided for by written policy.

**7.02.715 Payments Applied.**

Business taxes received will be applied first to any penalty accrued, then to interest accrued, then to business taxes due, unless the BureauDivision determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account.

**7.02.720 Interest on Refunds.**

When, under a provision of the Business License Law, taxfilers are entitled to a refund of a portion of the business tax paid to the BureauDivision, they will receive simple interest on such amount at the rate specified in Subsection 7.02.710 A., subject to the following:

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

**7.02.800 Refundable Credit.**

For tax years beginning on or after January 1, 2005, a maximum of four (4) refundable credits of \$500 each are allowed for qualifying businesses that employ disconnected

youth. For the purpose of this credit, the terms used in this section are defined below or as defined in written policies adopted under Section 7.02.210 unless the context requires otherwise.

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

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

**B. “Disconnected Youth”** means a youth that is

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

**C. “Qualified Youth Employment Organization”** means an organization that is qualified and funded to operate youth employment and training programs by the youth certifying agency.

- D. **“Credit Certificate”** means a pre-numbered certificate issued by the Youth Certifying Agency upon fulfillment of the employment contract. A separate certificate is required for each credit granted to a business.
- E. **“Youth Certifying Agency”** means an agency that has entered into an agreement or other memorandum of understanding with the Bureau Division to act as the Youth Certifying Agency for the purpose of this program.
- F. **“2005 Tax Year”** means a tax year that begins on or after January 1, 2005 and ends on or before November 30, 2006, but does not exceed a 12 month period.
- G. **“2006 Tax Year”** means a tax year that begins on or after January 1, 2006 and ends on or before November 30, 2007, but does not exceed a 12 month period.
- H. **“Non-exempt”** means that the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.

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

The Revenue Bureau Division is authorized to collect and remit donations from taxfilers to “Work for Art,” a program of the Regional Arts & Culture Council.

- A. Taxfilers may donate to “Work for Art” by either
  - 1. paying a sum above what is owed for their City business taxes, or
  - 2. by designating that all or some of any refund due to them be instead donated to “Work for Art.”
- B. To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.
- C. Once the tax return is filed with the Bureau Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Bureau Division.

**7.02.850 Hacking.**

- A. Any individual who intentionally accesses the Bureau Division’s computer database without authorization will be fined:
  - 1. \$500 if the individual acquires any information regarding any business account found in the database;
  - 2. \$1,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or



3. \$5,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the BureauDivision's computer database, and, as a result of such conduct, causes damage to the database.

**B. Definitions.** As used in this section:

1. the term "BureauDivision's computer database" means computer application(s) used by the BureauDivision to calculate and store business and financial data collected under the authority granted by the Business License Law;
2. the term "loss" means any reasonable cost incurred by the City of Portland, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;
3. the term "damage" means any impairment to the integrity or availability of data, a program, a system, or information.

**7.02.860 First Year Adjustment Credit.**

(Amended by Ordinance No. 182427, effective January 16, 2009.)

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

**7.02.880 Youth Employment Credit Programs.**

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. For tax years beginning on or after January 1, 2011, any youth employment credit authorized by City Council will use the terms defined below or as defined by written policy adopted under Section 7.02.210 unless the context requires

otherwise.

1. **“Local Business”** means a business operating in the pursuit of profit, gain or the production of income that:
    - a. has at least one physical location (such as an office, warehouse, store or restaurant) within the geographic boundaries of the State of Oregon and/or Clark County, Washington ; and
    - b. is registered to do business in the State of Oregon and said registration has not expired or otherwise been dissolved; or is a sole proprietorship that is not legally required to register to do business in the State of Oregon ; and
    - c. has a current account with the City of Portland and has complied with all filing and payment requirements of Portland ’s Business License Law and the Multnomah County’s Business Income Tax Law.
  2. **“Non-exempt”** means the local business has not claimed an exemption from the requirements of the Business License Law as defined and provided for in 7.02.400.
  3. **“Tax Year”** means any tax year allowed by the Internal Revenue Service and/or State of Oregon and used by the business to file their income taxes and begins during the year identified as the tax year of the credit.
  4. **“Youth Certifying Agency”** means the agency that is responsible for determining youth that qualify for one or more Youth Employment Credit programs.
- B.** Credits issued under a Youth Employment Credit program will have the following features:
1. Credits will be non-refundable;
  2. There will be a maximum number of credits per tax year per program;
  3. There will be a maximum number of credits that can be claimed by a Local Business in any given tax year;
  4. No individual credit will exceed \$500; and
  5. Credit certificates or letters will be provided by the Revenue ~~Bureau~~Division to be attached to the tax return claiming the credit(s).
- C.** Each Youth Employment Credit program will outline any youth qualifications and business obligations to qualify for the credit, including but not limited to the number of hours and the length of time that the youth must be employed to qualify for the credit, the definitions of a qualifying youth, the certifying agencies

for either the youth qualifications for the program or obligations of the business to obtain the credit, and any program goals and results that should be attained for renewal if the program is a pilot program.

**7.02.881 Foster Youth Employment Opportunity Credit.**

(Added by Ordinance No. 184716, effective August 5, 2011.)

- A. A Youth Employment Credit, known as the Foster Youth Employment Opportunity Credit, is available for tax years 2011 and 2012 to local businesses that employ foster youth certified by the State of Oregon Department of Human Services (DHS).
- B. For each tax year, 25 non-refundable \$500 credits are available on a first-come, first-served basis. An individual business can claim one credit for each separate foster youth employed for the minimum required hours, up to a maximum of four (4) credits in one tax year.
- C. To qualify for the credit, a business must:
  1. Employ a certified foster youth.
    - a. If the foster youth is enrolled in an educational program, the youth must average 12 hours per week and must have worked at least 200 hours in a six month period; or
    - b. If the foster youth is not enrolled in an educational program, the youth must average 25 hours per week and must have worked at least 400 hours in a six month period.
  2. Submit the following documentation no later than one month following the close of the tax year in which the credit is to be claimed. The documentation can be submitted at any time once the youth has worked sufficient hours to qualify for the credit.
    - a. A copy of the youth's DHS certification;
    - b. Sufficient summary payroll records that supports the average hours per week and total minimum hours required; and
    - c. Sufficient documentation of the school or other educational program where the youth was enrolled if claiming the credit based on Subsection 1.a. above.
  3. The Revenue ~~Bureau~~Division will issue either a credit certificate or credit letter authorizing the maximum credit(s) for the tax year.

## EXHIBIT F

187339

Amend the following section in Chapter 7.03:

### **7.03.040 License Required; Fees.**

Temporary businesses must apply for and obtain temporary business license certificates from the Revenue ~~Bureau~~Division of the City of Portland Bureau of Revenue and Financial Services. Temporary business license fees must be paid as provided below:

- A. Temporary Structure Vendors and Special Events Vendors must pay \$10 per day per vendor, not to exceed \$100 per location.
- B. Amusement Ride Operators must pay \$10 per day per vendor and \$10 per day for each ride operated.
- C. Promoters and Production Companies must pay \$25 per day.
- D. Seasonal Sales Vendors must pay \$10 per day for each location, not to exceed \$100 per location.

**EXHIBIT G**

Amend the following section in Chapter 7.14:

**7.14.040 Definitions.**

(Amended by Ordinance Nos. 182527, 184882, 185756 and 186827, effective October 31, 2014.)

- A. **“Bureau”** means the Revenue Bureau of Revenue and Financial Services of the City of Portland, Oregon, along with its employees and agents, or such other bureau as the City Council may designate.
- B. **“Cable Communications Utility”** means a business that provides cable service or telephone service to subscribers, including voice services delivered through the use of Internet protocol, through its own cable system or a cable system owned by another person.
- C. **“Director”** means the Bureau Director.
- D. **“Gross revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, and for use, rental, or lease of operating facilities of the utility engaged in such business, from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business.  
Gross revenues do not include proceeds from:
  - 1. The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or
  - 2. Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
  - 3. Revenues associated with Universal Service funding requirements under 47 U.S.C. § 254 (2012) or revenues associated with taxes for emergency communications under ORS Chapter 403 (2011).

4. The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee shall not include revenues from any tariffed or non-tariffed charge or service applicable to any connection, circuit or equipment which brings an E9-1-1 call to the appropriate responding Public Safety Answering Point, regardless of where the E9-1-1 call is originated.
- E. **“Internet Service”** means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.
- F. **“Licensee”** means any person or entity coming within the provisions of the Utility License Law, whether or not application has been made or a utility license has been issued.
- G. **“Public Safety Radio System”** means a radio system whose licensing and use of radio transmitters by state and local government and non-governmental entities is regulated by the Federal Communications Commission as engaged in public safety activities.
- H. **“Telecommunications”** means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming or any other information between or among points by wire, cable, fiber optics, laser, microwave, radio, or similar facilities, with or without benefit of any closed transmission medium, but does not include:
1. cable television services;
  2. private telecommunications network services;
  3. over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto;
  4. direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996;
  5. services provided solely for the purpose of providing internet service to the consumer;
  6. public safety radio systems;

7. mobile service within the meaning of 47 U.S.C. § 153(33) (2012) and
  8. services to devices exclusively utilizing electromagnetic spectrum unlicensed by the Federal Communications Commission.
- I.** “Utility” means the business of supplying electrical energy, gas, district heating or cooling, water, sewage disposal and treatment, cable, telecommunications, or other services through or associated with telephone or coaxial cable, and other operations for public service but does not include transportation service, railroad operations, or services otherwise licensed under this Title.