

## **TITLE 6 - SPECIAL TAXES**

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# **TITLE 6 - SPECIAL TAXES**

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### CHAPTER 6.04 - TRANSIENT LODGINGS TAX

(Chapter replaced by Ordinance No. 161506,  
effective January 1, 1989.)

#### Sections:

- 6.04.010 Definitions.
- 6.04.020 Tax Imposed.
- 6.04.025 Administrative Authority.
- 6.04.030 Collection of Tax by Operator.
- 6.04.040 Operator's Duties.
- 6.04.050 Exemptions.
- 6.04.060 Registration of Operator; Form and Contents; Certification of Authority.
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- 6.04.155 Appeal of Penalty or Interest Assessments.
- 6.04.165 Presumptive Tax for Failure to Register or File Returns.
- 6.04.170 Civil Penalties for Violations of this Chapter.

#### **6.04.010 Definitions.**

(Amended by Ordinance Nos. 162647, 186985, 187339 and 188170, effective January 20, 2017.) 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 their records when the Rent is earned, whether or not it is paid.
- B. **“Booking Agent”** means 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:

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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; 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; 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; or
  4. Any Person who lists commercial Hotel rooms or long-term rentals for transient lodging occupancy; or
  5. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third party providers receive information about a transaction and collect funds for the transient lodging occupancy from a Transient.
- C. **“Division”** means the Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- D. **“Director”** means the director of the Revenue Division, or designee.
- E. **“Business License Appeals Board”** means the Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- F. **“Cash Accounting”** means the Operator does not enter the Rent due from a Transient on their records until Rent is paid.
- G. **“Host”** means the owner or person who resides at a Short-Term Rental or has been designated by the owner or resident of 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.
- H. **“Hotel”** means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private

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dormitory, hostel, fraternity, sorority, public or private club, corporate housing or executive housing space or facility, and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 31-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

**I. “Occupancy”** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Room, Rooms or portion thereof in a Hotel as defined above.

**J. “Operator” means:**

1. Any Person who provides one or more Rooms for Occupancy for periods of 30 days or less to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person the Hotel consents to allow to process reservations and accept payments from the Transient on behalf of the Hotel; or
2. Any Person that facilitates the reservation of an accommodation and collects the payment for the Room reservation from the Transient; or
3. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300; or
4. A Booking Agent as defined in this Chapter.

There may be more than one Operator for a Hotel and each Operator is independently responsible for compliance with this Chapter though the tax will only be collected once. Operators include, but are not limited to, the Hotel owner and/or management, online travel companies, Booking Agents or other online travel facilitators, travel agents or companies, contracted management companies or any other Person that secures the right to occupy a Room on behalf of the Transient and receives payment from the Transient for that right whether or not the Operator is the ultimate recipient of the payment.

**K. “Person”** means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

**L. “Rent”** means the full consideration charged to the Transient for the right to occupy a Room in a Hotel, valued in money, goods, gift cards, labor, credits, property or other consideration of value without any deduction. Rent is considered to be the



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total amount represented to the Transient by an Operator as the consideration charged for the Occupancy including any accommodation fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- M. “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 is considered the same charge made for Rent of the identical room when it is not a part of a package plan.
- N. “Room”** means each portion of a Hotel which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations, such as meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk or dormitory style rooms, each bed is counted as a room.
- O. “Short-Term Rental”** means a house, duplex, 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 residential or has a building occupancy that only allows for residential use.
- P. “Tax”** means either the tax payable by the Transient or the aggregate amount of taxes due from an Operator during the period for which the Operator is required to report their collections.
- Q. “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 is not 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 is 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, and the tenancy actually extends more than 30 consecutive days.

**6.04.020 Tax Imposed.**

(Amended by Ordinance No. 188170, effective January 20, 2017.) 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 must enter the tax on their records when Rent is collected if the Operator keeps their records on the Cash Accounting basis and when earned if the Operator keeps their records on the

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Accrual Accounting basis. If Rent is paid in installments, a proportionate share of the tax must be paid by the Transient to the Operator with each installment. In all cases, the Rent paid or charged for Occupancy may exclude the sale of any goods, services and commodities, other than charges associated with furnishing rooms, including but not limited to cleaning fees, non-refundable deposits, reservation or service fees.

#### **6.04.025 Administrative Authority.**

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A.** The Revenue Division administers this Chapter. Nothing in this Chapter precludes the disposition of a controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.
- B.** The Director may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C.** The Director may adopt rules relating to matters within the scope of this Chapter or to obtain compliance with this Chapter.
- D.** Before adopting a new rule, the Director must hold a public hearing. Prior to the hearing, the Director must mail notice of the public hearing to each Operator currently registered with the Division at the last known mailing address provided or post the rule on the City of Portland website. The notice must be mailed not less than 10 nor more than 30 days before the hearing. Such notice must include the place, time and purpose of the public hearing, a brief description of the subjects covered by the proposed rule and the location where copies of the full text of the proposed rule may be obtained.
- E.** At the public hearing, the Director must accept oral or written testimony concerning the proposed rule. The Director will either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the public hearing.

#### **6.04.030 Collection of Tax by Operator.**

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

- A.** Operators must 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 cases of 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 is made. Adjustments may be made for uncollectible Rent where appropriate.

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

(Amended by Ordinance Nos. 186985, 187339, 188170 and 188501, effective July 5, 2017.)

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- A.** Operators must collect the Tax imposed by this Chapter at the same time as the Rent is collected from every Transient. The amount of Tax must be separately stated upon the Operator's records, and any receipt rendered by the Operator. If a single amount is stated on the Operator's records or receipts without a breakout between Rent and Tax, the Division will deem the entire amount is Rent and Tax will be calculated on the total amount. No imputation of Tax is permitted. No Operator may advertise that the Tax or any part of the Tax will be assumed or absorbed by the Operator, or that it will not be added to the Rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.
- B.** Upon request of the Division for any regulatory or tax administration purpose or upon issuance of a subpoena in accordance with this Chapter, Operators must provide all physical addresses of transient lodging occupancy locations within Portland city limits and the related contact information, including the name and mailing address of the general manager, agent, owner, Host or other responsible Person for the location. Any location and related contact information provided under this Subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

**6.04.050 Exemptions.**

(Amended by Ordinance Nos. 162647 and 188170; effective January 20, 2017.) 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 calendar month basis, irrespective of the number of days in such a month, shall not be deemed a Transient);
- B.** Any occupant in a hospital room, medical or mental health facility, convalescent home, skilled nursing facility, assisted living facility, foster home, rehabilitation center or a government owned and operated public institution.
- C.** Any Person housed through an emergency shelter or disaster program where the Rent is paid with government assistance funds;
- D.** Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization. An exemption may also be granted for direct bills to a Federal Government department, agency or instrumentality. An exemption may not be granted for Rents paid by contractors of the Federal Government, even if the Occupancy was for a Federal Government employee on official business, and notwithstanding the fact that such Rents may be reimbursed by the Federal Government or paid under the contract with the Federal Government.

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

(Amended by Ordinance Nos. 186736, 187339 and 188170, effective January 20, 2017.)

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- A.** Person engaging or about to engage in business as an Operator in this City must register with the Division on a form provided by the Division. Operators starting business must register within 15 calendar days after commencing business. The failure to register with the Division does not relieve any Person from the obligation of payment or collection of Tax. Registration must state the name under which an Operator transacts or intends to transact business, any affiliated companies or brands that are associated with the registration, the location of the place of business and such other information necessary to facilitate the collection of the Tax as the Division may require. The Operator must sign the registration form.
- B.** Within 10 days after registration, the Division will issue a Certificate of Authority and establish an account to collect the tax from the Transient. Certificates of Authority are non-assignable and non-transferable and will be returned to the Division upon the cessation of business or business sale or transfer at the location listed on the certificate, if applicable. Certificates of Authority must be prominently displayed so as to be seen by all occupants and persons seeking occupancy. If the Rent transaction is facilitated online, the Certificate of Authority must be able to be viewed by the Transient by clicking on link to the Certificate of Authority at a reasonable place during the payment transaction.
- C.** The Certificate of Authority will include at least the following:

  - 1.** The name of the Operator;
  - 2.** The date the certificate was issued;
  - 3.** “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any 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.** Hosts of Type A and Type B Accessory Short-Term Rentals must comply with the requirements of Chapter 33.207. In addition, all Operators of Type A and Type B accessory Short-Term Rentals as described in Chapter 33.207 must prominently display the Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No Operator will advertise or otherwise represent that an accessory Short-Term Rental is available for Occupancy unless all applicable legal requirements allowing the Occupancy of a Short-Term Rental has been met and the Operator has registered with the Division as required above. Additionally, this Permit Number, Conditional Use case file

number or other number issued directly by the Division must be prominently displayed in the rental unit so as to be seen by all short-term occupants.

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

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

- A.** The tax imposed by this Chapter must 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 Division on or before the last day of the following month for the preceding 3 months. If the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked before the first business day that follows will be deemed to have been received on the due date. The Division has authority to classify and/or district Operators for determination of applicable tax periods, and will notify each Operator of the due dates for returns.
- B.** On or before the last day of the month following each quarter of collection, or month of collection if an Operator is required or elects to file monthly returns, a return for the preceding period's tax collections must be filed with the Division. The return must be filed in such form as the Division may prescribe for payment of the tax.
- C.** Returns must show the amount of tax collected or otherwise due for the related period. The Division may require returns to include additional information to explain the tax calculation.
- D.** The Person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- E.** For good cause, the Division may extend for 1 month the time for making any return or payment of tax. No further extension will be granted, except by the Director. Any Operator to whom an extension is granted will pay interest at the rate of 1.25 percent per month on the amount of tax due without proration for a portion of a month or reduction for any prepayments or credits available. If a return is not filed, and the tax and interest due is not paid by the end of the extension period, then the interest will be added to the tax due for computation of penalties and additional interest described elsewhere in this Chapter.
- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods. If an Operator is required to report on a more frequent basis, the Division will provide a schedule showing the tax periods, due dates and delinquent dates.

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#### **6.04.080 Penalties and Interest.**

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

- A.** Original delinquency. Any Operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter on or before the due date will pay a penalty of 10 percent of the tax due in addition to the tax. There is no grace period between the due date and the assessment of a penalty and interest; the day following the due date is considered to be the delinquent date.
- B.** Continued delinquency. Any Operator who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the tax due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C.** Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the tax will be added in addition to the penalties stated in paragraphs A. and B. of this Section and interest stated in paragraph D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculations.
- D.** Interest. In addition to the penalties imposed, any Operator who fails to file or pay any tax imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for waiver. Any Operator who fails to pay the tax within the time stated must pay the tax, penalties and interest assessed; however, the Operator may petition the Director for waiver and refund or credit of all or part of the penalty assessed and the Director may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

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

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

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- A.**     Deficiency determinations. If the Division determines that a return is incorrect, that required reports or returns have not been filed, or that an Operator has otherwise failed to comply with the terms of the Code, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within ten days. The Division may assess penalties and interest as set forth in Section 6.04.080.
1.     In making a deficiency determination, the Division may offset overpayments, if any, which may have been previously made against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
  2.     The Division must give to the Operator or Transient (in the case of a refund request) a written notice of its deficiency determination. The notice may be served personally or by mail. If by mail, the notice will be addressed to the Operator at the address as it appears on the records of the Division or as the Division can best determine if the Operator has not provided that information to the Division. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit with the United States Post Office.
  3.     Any deficiency is due and payable within 10 days. The Operator or Transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the Division from extending the time for petition beyond 10 days at its sole discretion.
  4.     Every deficiency determination must be made and notice mailed within 5 years after a return was originally filed, subsequently amended or the tax was paid, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced, at any time and is not subject to the 5 year limitation above.
- B.**     Operator delay. If the Division believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any deficiency determination will be jeopardized by delay, the Division may make a deficiency determination of the tax or amount of tax required to be collected, noting the fact upon the deficiency determination. The amount so determined is immediately due and payable, and the Operator will immediately pay such determination to the Division after service of notice thereof; provided,

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however, the Operator may petition, after payment has been made, for a redetermination of the Division's assessment, if the petition is filed within 10 days from the date of the written notice from the Division.

#### **6.04.100 Redeterminations.**

(Amended by Ordinance Nos. 184772, 187339 and 188170, effective January 20, 2017.)

- A.** Any Person against whom a deficiency determination is made under Section 6.04.090 or civil penalties assessed under Section 6.04.170 may petition for a redetermination within the time required in Section 6.04.090. The deficiency determination becomes final at the expiration of the allowable time.
- B.** If a petition for redetermination is filed within the time provided in Subsection 6.04.090 A.3., the Director will reconsider the deficiency determination or civil penalties, and, if requested in the petition, will grant an oral hearing and give 10 days notice of the time and place of the hearing. The Director may continue the hearing from time to time as may be necessary.
- C.** The Director may adjust the amount of the deficiency determination as a result of the hearing and, if an increase is determined, such increase will be payable immediately after the hearing.
- D.** The Director's order or decision becomes final 10 days after service upon the petitioner unless an appeal is filed with the Business License Appeals Board or Hearings Officer, if applicable, within 10 days after service.
- E.** No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Operator has first complied with the payment provisions and has paid in full the amount determined to be due in the deficiency determination or civil penalty that is being appealed.

#### **6.04.110 Security for Collection of Tax.**

(Amended by Ordinance Nos. 162647, 187339 and 188170, effective January 20, 2017.)

The Division, whenever deemed necessary to ensure compliance with this Chapter, may require any Operator to deposit security in the form of cash, bond or other security as the Division may determine. The amount of the security will be determined by the Division but will not be greater than twice the Operator's largest quarterly liability, determined in such manner as the Division deems proper. No interest will accrue on any security required by the Division.

#### **6.04.120 Credits or Refunds.**

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

- A.** Credits by City to Operator. Whenever the amount of any tax, penalty, or interest has been paid in error to the Division under this Chapter, it may be credited to the



Operator's account, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Division within 3 years from the date of payment. If the claim is approved by the Division, the excess amount collected or paid may be credited against any current or future amounts due and payable from the Operator. If there is no future liability, the Division may issue a refund.

- B.** Refunds by City to Transient. Whenever the tax required by this Chapter has been collected by the Operator, and paid by the Operator to the Division, and it is later determined that the tax was erroneously collected by the Operator, it may be refunded by the Division to the Transient or the party who paid the tax if different from Transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Division within 3 years from the date of payment. Prior to any refund, the Division will audit the Operator's records to determine that the tax was collected and paid to the City.
- C.** Refunds by Operator to Transient. Whenever the tax required by this Chapter has been collected by the Operator and it is later determined that the tax was collected in error, the Operator will refund to the Transient the tax previously collected. The Operator will account for such collection and refund to the Division. If the Operator has remitted the tax prior to refund to the Transient, the Operator may request a credit for the refunded tax when the next report is filed with the City.

**6.04.130 Administration and Recordkeeping.**

(Amended by Ordinance Nos. 187339, 188170 and 188501, effective July 5, 2017.)

- A.** Records required from Operator. Operators must keep appropriate records, including but not limited to registration forms or logs, accounting and bank records, supporting documentation for all deductions taken and any other documentation necessary to support the tax report filed or required to be filed. All records must be retained by the operator for a period of 5 years and 6 months after the filing of the tax return, amended return or payment of the tax, whichever is later.
- B.** Examination of records; investigations. The Division, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to tax returns filed by any Operator, after notification to the Operator liable for collecting and remitting the tax, and may investigate the business of the Operator in order to verify the accuracy of any return made, or if no return is made or, to determine the amount required to be paid.
- C.** Subpoenas. For purposes of determining compliance with this Chapter, the Director may issue subpoenas to any Operator or Person for the production of all information, documents, reports, records, accounts, papers, and other data and documentary evidence, in whatever format or however stored, necessary to ensure compliance with this Chapter.

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1. It is unlawful for any Operator or Person so subpoenaed to neglect or refuse to attend at the proper time and place and to bring the records mentioned in the subpoena, or, having done so, to refuse or neglect to answer such questions as may be applicable to the matter at issue or to allow records to be examined, unless the Operator or Person has first sought and obtained an order quashing the subpoena from a court of competent jurisdiction, in the same manner as provided for in a civil case. Failure to seek and obtain such an order waives any objections or defenses the person may have against compliance with the subpoena, whether or not the person made any specific objections or raised that specific defense in seeking the order to quash.
  2. If an Operator or Person subpoenaed as provided fails to appear or produce any records as required, or whenever any Operator or Person so summoned refuses to answer any question pertinent to the subject under inquiry, the City Attorney may apply to any court of competent jurisdiction for an order to the Operator or Person to attend and testify, or otherwise comply with the subpoena.
  3. The City Attorney's application to the court may seek an order requiring the Operator or Person against whom the subpoena is directed to comply with the subpoena within 3 days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.
- D. Should the City prevail in any legal proceedings in any state or federal court to collect the taxes, penalties and interest assessed in accordance with this Chapter, or to enforce a subpoena, the City shall be entitled to its reasonable costs and attorneys' fees.
- E. At any time within 5 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 5 years after any determination becomes final, in the case where no tax returns have been filed, the Division may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount tax due, together with all penalties and interest amounts assessed under this Code.
- F. Confidential financial information. Except as otherwise required by law, it is unlawful for the Division, or any elected official, employee or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Division under the terms of Chapter 6.04. Nothing in this subsection prohibits:
  1. The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting taxes imposed under the terms of this Chapter, or collecting City permit fees or business license taxes; or

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2. The disclosure to the Operator or an authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request and approval of the request by the Director; or
3. The disclosure of the names and addresses of any persons to whom Certificates of Authority have been issued; or
4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular Operator's return; or
5. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Division deems disclosure or access necessary for the performance of the duties of advising or representing the Division.
6. The disclosure of financial information or unpaid tax balances, including penalty and interest assessments, to an outside collection agency on contract with the City to provide collection services.

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

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.)

- A. Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the Division or Director made upon petitions for redetermination. The Board may affirm, modify, or reverse such orders or decisions or dismiss the appeals and prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the Division or Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It will give notice of its determinations in the manner prescribed for service of a notice of the Division or Director's decision and will file a copy of each such determination with the Division. Such determination will become final after 10 days and any increase to the determination becomes due and payable once final, subject to interest and penalties, and enforceable by the Division as an order or decision of the Division or Director.
- B. For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C. An appeal involving an amount in controversy greater than \$50,000 will be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board.

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The Hearings Officer will be appointed by the City Attorney, will be a member of the Oregon State Bar and will not be a City employee.

- D.** In appeal hearings held before a Hearings Officer, the appellant and the City's representative will each have the right to appear in person and be represented by legal counsel, to receive notice, to respond to and present evidence, to call and cross-examine witnesses under oath and to present argument on all issues involved. Subject to the provisions herein, the City Attorney may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.
- E.** The record in a proceeding before the Hearings Officer will include:

  - 1.** All pleadings, motions, and intermediate rulings;
  - 2.** Evidence received or considered;
  - 3.** Stipulations;
  - 4.** A statement of matters officially noticed;
  - 5.** Questions and offers of proof, objections, and rulings thereon;
  - 6.** Proposed findings and exceptions; and
  - 7.** Any proposed, intermediate, or final order prepared by the Hearings Officer.
- F.** The Hearings Officer has the power to compel attendance of witnesses by deposition or at hearing and the production of documents by subpoena to any party upon showing of general relevance and subpoena in accordance with civil law.
- G.** The formal rules of evidence do not apply and any relevant evidence that is the sort of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of serious business affairs is admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The Hearings Officer will give effect to the rules of privilege recognized by law.
- H.** The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of City employees.
- I.** A verbatim, written, mechanical, or electronic record will be made on all motions, rulings, and testimony if requested by any party. The record will be transcribed for

the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript will be allowed as a part of the City's costs in such action.

- J.** The Hearings Officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, penalty or interest due in accordance with the Transient Lodgings Tax Law. The Hearings Office does not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest assessment found to be duly imposed.
- K.** The decision of the Hearings Officer will be issued in writing in a final order. The final order becomes final on the date specified in the order, which date will be within 30 days after the conclusion of the hearing. The decision is the final administrative remedy of the appellant. Any amounts due are payable to the City of Portland within 10 days of the order becoming final. The Hearings Officer will notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

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

(Replaced by Ordinance No. 184772; amended by Ordinance Nos. 187339 and 188170, effective January 20, 2017.) Any Operator or Transient aggrieved by a decision of the 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 Director within 10 days of the service of the notice of a Director's decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals.

**6.04.155 Appeal of Penalty or Interest Assessments.**

(Added by Ordinance No. 188170, effective January 20, 2017.) Appeals of penalty and/or interest assessments are not subject to the appeals process or timeline outlined in Section 6.04.140 or 6.04.150 above. The Operator must follow the "Redetermination" procedures under Section 6.04.100. The decision of the Director regarding penalty and interest assessments is final.

**6.04.160 Appeals to City Council.**

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

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

(Added by Ordinance No. 188170, effective January 20, 2017.)

- A.** The Director may impose a presumptive tax upon any Person failing or refusing to register as an Operator or file tax returns as required under this Chapter.

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- B.** In calculating the presumptive tax amount when imposed under this Section, the Division will determine:
  - 1.** The number of rooms that the Operator controlled for each day that it was not registered; and
  - 2.** The room rental rate, based upon the best available information, including comparable operations by a similarly situated Operator; or
  - 3.** Use any other reasonable method available to the Division to impose a presumptive tax, including but not limited to tax returns filed by similarly situated Operators.
- C.** Any presumptive tax issued under this section will include penalty and interest assessments based on when the registration or tax returns were originally due, following the rules established within this Chapter.
- D.** Presumptive taxes are not intended to approximate actual taxes that may be due and nothing prohibits the Division from assessing excessive tax amounts due based on reasonable assumptions and calculation methods.

#### **6.04.170 Civil Penalties for Violations of this Chapter.**

(Amended by Ordinance Nos. 186985, 187339 and 188170, effective January 20, 2017.) It is unlawful for any Operator or other Person so required to fail or refuse to register or to fail or refuse to file any return required, or to fail or refuse to file a supplemental return or any other data required by the Division, or to render a false or fraudulent return, or to fail to perform any of the duties required in Chapter 6.04. No Person required to make, render, sign, or verify any report will make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter. In addition to any presumptive taxes assessed under Section 6.04.165, the Director may impose a civil penalty of up to \$500 for each violation of this Chapter. Violations may be assessed as frequently as necessary to achieve compliance with this Chapter, up to and including daily. A violation includes, but is not limited to:

- A.** Failure to file any required Transient Lodgings Tax payment and/or report, including any penalties and interest, within 60 days of the due date;
- B.** Filing a false or fraudulent report;
- C.** Failure to register a Hotel or Short-Term Rental, or failure to register as an Operator with the Division as described in Section 6.04.060;
- D.** Failure to maintain a separate account for the transient lodgings tax collected when required by the Division;

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- E.** Failure to provide any data or other information requested by the Division, including but not limited to, the physical address of a transient lodging occupancy location within Portland and the related contact information;
- F.** Failure by a Host or failure by any Operator to prominently display the Type A Permit Number, Type B Conditional Use case file number or Revenue Division issued advertising number in advertising or other listing services, or failure by the Host to post the number in the Short-Term Rental unit; and
- G.** Failure by an Operator to prominently display the Accessory Short-Term Rental permit number, case file number or other number issued by the Division in all advertisements and/or in the Short-Term Rental.
- H.** Failure by an Operator to maintain records required in Subsection 6.04.130 A.

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### **CHAPTER 6.05 - TOURISM IMPROVEMENT DISTRICT**

(Chapter added by Ordinance No. 185443, effective  
July 20, 2012.)

#### **Sections:**

- 6.05.010 Portland Tourism Improvement District.
- 6.05.020 Definitions.
- 6.05.030 License Registration Required.
- 6.05.040 License Transfer.
- 6.05.060 Portland Tourism Improvement District License Rate.
- 6.05.070 Due Date; Returns and Payments.
- 6.05.080 Disposition of License Fees.
- 6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.
- 6.05.100 Penalties and Interest.
- 6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.
- 6.05.110 Civil Penalties.
- 6.05.120 Revenues and Programs.
- 6.05.130 Portland Tourism Improvement District Periodic Sunset Review.
- 6.05.140 Severability.

#### **6.05.010 Portland Tourism Improvement District.**

(Amended by Ordinance No. 189028, effective August 1, 2018.) The Portland Tourism Improvement District includes all Hotels, as defined in Section 6.05.020, and all Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations within the Portland City limits.

#### **6.05.020 Definitions.**

(Amended by Ordinance Nos. 187339, 187828, 188171 and 189028, effective August 1, 2018.)

- A. “Booking Agent” means 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; or



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2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; 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; or
  4. Any Person who lists commercial Hotel rooms or long-term rentals for transient lodging occupancy; or
  5. Any Person who directly or indirectly accepts, receives or facilitates payment, whether or not they are the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third-party providers receive information about a transaction and collect funds for the transient lodging occupancy from a Transient; or
  6. Any Transient Lodging Provider, Transient Lodging Intermediary or Transient Lodging Tax Collector as defined in ORS 320.300.
- B.** “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C.** “Division Director” and “Director” mean the Director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, or designee;
- D.** “District” means the Portland Tourism Improvement District as described in this Chapter;
- E.** “Notice” means a written document mailed by the Division by first class mail to the last known address of a hotel as provided to the Division in the latest application or return on file at the Division; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the latest business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;
- F.** “Hotel” means any structure, or any portion of any structure which is used, occupied, intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, boutique hotel, lodging house, rooming house, apartment house, single family house or any portion of such house, duplex, condominium, bed and breakfast facility, vacation home, multi-dwelling structure, accessory dwelling unit, trailer home, houseboat, public or private

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dormitory, hostel, fraternity, sorority, public or private club, corporate housing or executive housing space or facility and also means space in a mobile home or trailer park or portion thereof so occupied, provided such occupancy is for less than a 31-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

**G.** “Engaged in hotel management activities” means:

- 1.** Being financially responsible for a water service provided to a Hotel or Short-Term Rental; or
- 2.** Being financially responsible for operation of a Hotel or Short-Term Rental business; or
- 3.** Being responsible for initiating or maintaining Short-Term Rental listing information on an online travel booking site; or
- 4.** Being financially responsible for the indicia of management of a Hotel or Short-Term Rental, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
  - a.** Being responsible for waste disposal service provided to a Hotel or Short-Term Rental;
  - b.** Being responsible for providing fire insurance for a Hotel or Short-Term Rental;
  - c.** Being responsible for repair and maintenance of a Hotel or Short-Term Rental;
  - d.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a Hotel or Short-Term Rental; and
  - e.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a Hotel or Short-Term Rental.

**H.** "City Council" means the City Council of the City of Portland, Oregon.

**I.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel or Short-Term Rental for the occupancy of guest rooms only, valued in money, goods, gift cards, labor, credits, property or other consideration of valued, without any deduction. Rent is considered to be the total amount represented to the Transient as the consideration charged for the occupancy

including any accommodation fees, customer fees, booking fees, service fees, off-platform booking fees, non-refundable fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- J.** “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.
- K.** “Person” means any individual, firm, partnership, joint venture, limited liability company, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in Hotel management activities within the District.
- L.** “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- M.** “Room” means each portion of a Hotel or Short-Term Rental which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations such as, meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk and dormitory style rooms, each bed is counted as a room under this definition. This definition is included for purposes of determining if a hotel is included in the District.
- N.** “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- O.** “Short-Term Rental Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary.

**6.05.030 License Registration Required.**

(Amended by Ordinance Nos. 187828 and 189028, effective August 1, 2018.) Any person engaged in Hotel Management Activities of any Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations within the District shall register for such activities covering each license year, or if application is made after the beginning of

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a license year, then for the balance of the license year. Only one person needs to register for each Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of Hotel or Short-Term Rental management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee shall not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

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

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** Except as provided in this Section, no license shall be transferred or assigned from one person to another.
- B.** The Division shall allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted hotel management activities requiring a license under this Chapter. Any transfer shall be reported to the Division in writing or on a form provided by the Division and shall be effective when the Division approves the transfer as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Division's approval; and the transferee shall be responsible for any license fee installments which become payable after the Division's approval.

#### **6.05.050 License Term.**

(Repealed by Ordinance No. 189028, effective August 1, 2018.)

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

(Amended by Ordinance No. 189028, effective August 1, 2018.) The license assessment established by this Chapter for Hotel or Short-Term Rental management activities in the Portland Tourism Improvement District shall be calculated as follows:

- A.** Gross rent charged by the Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations;
- B.** Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C.** Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and

- D.** Minus rent received from stays by any U.S. Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E.** Multiplied by .02 (two percent).

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

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

- A.** The assessment imposed by this Chapter is due and payable on or before the last day of the following month for the preceding three months. If the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows. Payments and returns received or postmarked before the first business day that follows will be deemed to have been received on the due date. The Division has the authority to classify and/or district the Hotels or Short-Term Rental who use Booking Agents to advertise or accept reservations for determination of applicable collection periods.
- B.** On or before the last day of the month following each quarter of collection, or month of collection if a Hotel or Short-Term Rental is required or elects to file monthly returns, a return for the preceding period's assessment on a form prescribed by the Division must be filed. The return must be filed in such form as the Division may prescribe for payment of the assessment.
- C.** Returns must show the amount of assessment owed for the period. The Division may require returns to include additional information to explain the assessment calculation.
- D.** The Person required to file the return shall cause to be delivered the return, together with the remittance of the amount of assessment due, to the Division at its office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the day of delivery for determining delinquencies.
- E.** For good cause shown, the Division may extend the time for making any return or payment of the assessment for one month. No further extension will be granted, except by the Director. Any person granted an extension will pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month or reduction for any prepayments or credits available. If an extension is granted and the assessment and interest due is not paid by the end of the extension granted, then the interest will be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.
- F.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly

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periods. If a Hotel or Short-Term Rental who use Booking Agents to advertise or accept reservations is required to report on a more frequent basis, the Division will provide a schedule showing the assessment periods, due dates and delinquent dates.

- G.** Any Booking Agent or Transient Lodging Intermediary who collects and remits the Transient Lodging tax imposed under Chapter 6.04, shall also provide a Short-Term Rental Host an option for the Booking Agent or Transient Lodging Intermediary to collect and remit the assessment imposed by this Chapter.

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

(Amended by Ordinance No. 187828, effective July 15, 2016.) The Division shall forward revenues collected, minus any amount withheld to cover administrative costs incurred by the Division to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

#### **6.05.090 Authority of Director to Adopt Rules, Procedures, and Forms.**

(Amended by Ordinance No. 187828, effective July 15, 2016.)

- A.** The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
  - 1.** Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
  - 2.** During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Division's office. Copies of all current rules shall be made available to the public upon request.
  - 3.** The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the

public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

**6.05.100 Penalties and Interest.**

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

- A.** Original Delinquency. Any Licensee that has not been granted an extension of time for remittance of the assessment due and who fails to remit any assessment imposed by this Chapter on or before the due date will pay a late penalty of 10 percent of the amount of the assessment due in addition to the assessment. There is no grace period between the due date and the assessment of penalty and interest; the day following the due date is considered to be the delinquent date.
- B.** Continued Delinquency. Any Licensee who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the assessment due plus all penalty and interest assessments at the time of the continued delinquency calculation.
- C.** Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the assessment shall be added in addition to the late penalties stated in Subsections A. and B. of this Section and interest stated in Subsection D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculation.
- D.** Interest. In addition to the penalties imposed above, any Licensee that fails to file or pay any assessment imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the assessment due from the first day following the original due date. Interest shall be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merged with assessment. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the assessment required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for Waiver. Any Licensee that fails to pay the assessment within the time stated must pay the tax, penalties and interest assessed; however, the Hotel may petition the Division for waiver and refund or credit of all or part of the penalty assessed and the Division may, if a good and sufficient reason is shown, waive

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some or all of the penalty assessment. Interest will not be waived except by written policy.

#### **6.05.105 Business License Appeals Board; Hearings Officer; Appeal; Rules.**

(Added by Ordinance No. 187828, effective July 15, 2016.) Any person engaged in hotel management activities aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal to the Business License Appeals Board or Hearings Officer as allowed in City Code Section 6.04.140 by filing a notice of appeal with the Division Director within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals. The procedures and rules of City Code Section 6.04.140 will apply to any such appeal.

#### **6.05.110 Civil Penalties.**

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

- A.** The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B.** Failure to separately state on the guest folio, bill or receipt the 2 percent fee if the charge is being passed through to the guest as an additional charge or fee.
- C.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.05.105.

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

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

- A.** Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit both Hotels and Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations paying the assessment. Programs may include:
  - 1.** Internet, radio, television, and print advertising;
  - 2.** Branding efforts;
  - 3.** Sales promotions;
  - 4.** Sponsorship of special events which attract out-of-town visitors; and
  - 5.** Other programs designed to increase overnight stays at Hotels or Short-Term Rentals.



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- B.** Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:
- 1.** Prepare and submit to the City Council, and make available to lodging businesses, an annual report on expenditures and activities;
  - 2.** Manage funds in accordance with the provisions of this Chapter;
  - 3.** Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
  - 4.** Enter into an Agreement with the City of Portland relative to management of district funds.
- C.** The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. Portland Tourism Improvement District funds shall supplement the existing funding of one percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City of Portland.

**6.05.130 Portland Tourism Improvement District Periodic Sunset Review.**

(Amended by Ordinance No. 187828, effective July 15, 2016.) During 2021 and each 10th year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2021 and each 10th year thereafter, the Division shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

**6.05.140 Severability.**

If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases shall not be affected but shall remain in full force and effect.

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### **CHAPTER 6.06 - DISTRICT PROPERTY MANAGEMENT LICENSE**

(Chapter replaced by Ordinance No. 175729,  
effective July 27, 2001.)

#### **Sections:**

6.06.010	License Required.
6.06.020	Definitions.
6.06.030	Authority of Manager to Adopt Rules, Procedures and Forms.
6.06.040	License.
6.06.050	Exemptions from License Requirements.
6.06.060	License Transfer.
6.06.080	License Term.
6.06.090	Preparation and Notice of Fee.
6.06.095	Preparation and Notice of Fee Adjustment.
6.06.100	Appeals.
6.06.110	Registration for License.
6.06.120	Interest on Delayed Application.
6.06.140	Fee Payment in Two Installments.
6.06.145	Fee Payment in One Installment.
6.06.150	Penalty and Interest on Failure to Pay Fee.
6.06.160	Civil Penalties.
6.06.180	Severability.
6.06.190	Clean & Safe District.
6.06.200	Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.
6.06.210	Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.
6.06.211	Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.
6.06.212	Clean & Safe District Exempt Property.
6.06.213	Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.
6.06.214	Clean & Safe District Square Footage of Improvements.
6.06.215	Pledging of Clean & Safe District License Fee Revenues.
6.06.216	Lighting and District Amenities Revenues and Program.
6.06.220	Clean & Safe District Periodic Sunset Review.
6.06.230	Clean & Safe District Early Termination.
6.06.240	Request Annual CPI Increase to be Different than Calculated.
6.06.250	Lloyd District.
6.06.260	Lloyd District Fee Rates for Engaging in Property Management Activities.
6.06.270	Revisions to License Fee Year Schedule.
6.06.280	Lloyd District Periodic Sunset Review.
6.06.290	Lloyd District Early Termination.

6.06.300 Request That Annual Lloyd District Escalator Be Lowered.

**6.06.010 License Required.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) Any person engaged in property management activities within a District will pay a license fee for such activities covering each license year, or if registration is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, will not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of property management in a District, and the revenues collected will be used to provide, through a qualified contractor, cleaning, security, crime prevention, business development, transportation, public policy, housing, and marketing and communications services, or any such services, that benefit properties in the District. The payment of a license fee required hereunder and the acceptance of such fee and issuance of a license by the City will not entitle a licensee to engage in any activities not in compliance with all the requirements of this Code, including but not limited to the requirements of Title 7, and all other applicable laws.

**6.06.020 Definitions.**

(Amended by Ordinance Nos. 182925, 185495 and 187339, effective October 16, 2015.) 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. “Division” means the Revenue 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;

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- 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

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- 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” does not include any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this subsection; and
    - b. Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the license year; and
  3. Any other property in a particular District established by this Chapter that this Chapter identifies as exempt property for that District.
- J. “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;
- K. “Manager” means the Director of the Revenue Division or his or her designee;
- L. “Notice” means a written document mailed by the Division by first class mail to the last known address of a licensee as provided to the Division in the latest application on file at the Division; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Division in the latest general business license tax return on file at the Division or, if none, then to such address as may be determined following reasonable investigation;

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- M.** “Person” means a natural person, sole proprietorship, partnership, joint venture, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity capable of engaging in property management activities within the District;
- N.** “Qualified contractor” means a non-profit corporation or other non-profit entity established by property owners or licensees in the District for the purpose of providing services that benefit the District;
- O.** “Residential Property” means real property that is exclusively in residential use and is not exempt property. If part of real property is in residential use and part is not in residential use or is exempt property, then “residential property” is that portion of the real property that is exclusively in residential use and is not exempt property, and a proportionate share of land. Property is considered to be in residential use if the use is within a “Residential Use Category” as defined by Chapter 33.920 of this Code. For a condominium, all condominium units and their undivided interests in the common elements will be treated as a single property; and
- P.** “Square feet” and “square footage,” except as otherwise expressly stated in this Chapter, means square footage as recorded in the records of the Multnomah 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.

#### **6.06.030 Authority of Manager to Adopt Rules, Procedures and Forms.**

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

- A.** The Manager may adopt rules, procedures and forms to implement the provisions of this Chapter.
- B.** Adoption of Rules.
  - 1.** Prior to the adoption of any rule by the Manager pursuant to this Section, a public hearing will be conducted. The Manager will give reasonable public notice of his or her proposal to adopt rules not less than ten nor more than thirty days before such public hearing. Such notice will include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
  - 2.** During the public hearing, the Manager will hear statements or receive written comment concerning the proposed rules. The Manager will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review may be conducted, but no additional public notice will be required if an announcement is made at the hearing of

a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules will be effective upon adoption by the Manager. All rules adopted by the Manager will be filed in the Bureau's office. Copies of all current rules will be made available to the public upon request.

3. Notwithstanding Subsections 6.06.030 B.1.-2., the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph will be effective for a period of not longer than 180 days.

**6.06.040 License.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) No person will engage in property management activity within the District unless such person first will have paid a license fee installment as described in Subsection 6.06.140.

**6.06.050 Exemptions from License Requirements.**

Persons who the city is prohibited from licensing or 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 are exempt from the license requirements imposed by this Chapter, to the extent of any such prohibition.

**6.06.060 License Transfer.**

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

- A. Except as provided in this Section, no license will be transferable from one person to another.
- B. The Bureau may allow transfer of a license for the balance of its term to a successor or transferee who continues the acts that constituted property management activities requiring a license under this Chapter. Any transfer will be reported to the Bureau in writing or on a form provided by the Bureau and will be effective when the Bureau approves the transfer as complete. The licensee will be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee will be responsible for any license fee installments which become payable after the Bureau's approval.

**6.06.070 Contents of License.**

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

**6.06.080 License Term.**

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

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- A.** Each license issued under this Chapter will be dated as of the first day of the month in which the license is issued or was required to have been obtained. Each license issued under this Chapter will expire on the day prior to the beginning of the new license year. In no case will a license be valid in excess of 12 months.

#### **6.06.090 Preparation and Notice of Fee.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) On or before August 1 of each year, the Bureau will make a preliminary determination of each person engaged in property management activity within the District and subject to the license fee requirement and of the amount of license fee payable by the person for the next license year. On or before August 1, the Bureau will mail to each person preliminarily determined to be engaged in property management activity within the District and subject to the license fee requirement a notice which contains the following information:

- A.** That the Bureau has determined the person is engaged in property management activity within the District that is subject to the license fee requirement;
- B.** The amount of the license fee the Bureau has determined to be payable by the person for the next license year, including the data and formula used in determining the amount;
- C.** The activities which constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.1.-3.;
- D.** The activities which do not constitute being engaged in property management activities, as defined in Subsection 6.06.020 H.4.;
- E.** The exemption provisions of Section 6.06.050 and the definition of exempt property as set out in Section 6.06.020 I. and any other provision of this Chapter applicable to the District;
- F.** That any appeal from the determinations of the Bureau as to the person's engagement in property management activity within the District, as to the person's being subject to the license fee requirement, or as to the amount of the license fee payable by the person for the next license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed. Appeal information from Section 6.06.100 will be included with the notice.

#### **6.06.095 Preparation and Notice of Fee Adjustment.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) In cases in which the sections of this Chapter establishing a license fee formula for the District provide for a license fee adjustment, the Bureau, following City issuance of authorization to occupy improvements or any portion of improvements, will make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau will mail to the licensee a notice which contains the following information:



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- A.** That the Bureau has determined that the licensee is subject to a fee adjustment;
- B.** The amount of the adjusted license fee the Bureau has determined to be payable by the licensee for the balance of the license year, including the data and formula used in determining the adjusted amount;
- C.** That any appeal from the determinations of the Bureau as to the person's being subject to a license fee adjustment, or as to the adjusted amount payable for the balance of the license year, must be filed in writing with the Bureau not later than 30 days after the notice is mailed.

Failure to receive notice as provided in this Section will not relieve a person from the obligation to pay an adjusted license fee payable under this Chapter.

**6.06.100 Appeals.**

(Amended by Ordinance Nos. 176955 and 185495, effective July 11, 2012.)

- A.** Persons to whom the Bureau mails a notice under Section 6.06.090 will be presumed to be engaged in property management activity within the district, to be subject to the license fee requirement, and to be liable for the amount indicated in the notice as the license fee payable by the person for the next license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- B.** Persons to whom the Bureau mails a notice under Section 6.06.095 will be presumed to be subject to a license fee adjustment, and to be liable for the adjusted amount indicated in the notice as payable for the balance of the license year, unless the person files with the Bureau an appeal not later than 30 days after the date of mailing of the notices.
- C.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.090 on the following grounds:
  - 1.** The person is not engaged in property management activity within the District as defined in Subsection 6.06.020 H.1.-4.;
  - 2.** The person is not subject to the license fee requirement because the person is exempt under Section 6.06.050;
  - 3.** The amount of license fee determined by the Bureau to be payable by the person for the next license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.

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- D.** A person may appeal a preliminary determination of the Bureau made under Section 6.06.095 on the following grounds:
- 1.** The licensee is not subject to a fee adjustment;
  - 2.** The amount of the adjusted license fee determined by the Bureau to be payable by the person for the balance of the license year is incorrect because the data reviewable under Subsection E. of this Section or the application of the formula to the data is incorrect.
- E.** The Bureau, in its discretion, may grant an appeal without audit or may audit an appeal to determine whether the appeal should be granted. The audit may include review of such evidence as the Bureau deems appropriate. If the person appeals on the ground that the data used in determining the license fee payable are incorrect, the Bureau will not be bound by the data contained in the record sources identified in the sections of this Chapter establishing the license fee formula for the District and may consider other evidence as to data, except that the Bureau will be bound by the assessed value data as recorded in the Multnomah County assessment roll, by the square footage data as recorded in the records in the Multnomah County Office of Assessment and Taxation, by the City Bureau of Development Services written documentation of authorization to occupy improvements or portions of improvements, by the City Bureau of Development Services building permit application records of the cost of physical changes, and by the City Bureau of Development Services building permit application records of the additional square feet of improvements, when those record sources are designated for use by a section of this Chapter establishing the license fee formula for the District. In the event the Bureau determines that an appeal should or should not be granted, in whole or in part, then the Bureau will give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination is final.

#### **6.06.110 Registration for License.**

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

- A.** All persons required to obtain a license under this Chapter may register with the Bureau either in writing or on specific forms if provided by the Bureau. Registrations will be filed, together with the specified license fee installment if known or due at the time of registration:
- 1.** Before the property manager engages in property management activities in the District; or
  - 2.** Prior to commencement of the new license year.

- B.** The Bureau may, for good cause, allow further time for filing registrations, except that no extension may be granted for more than 30 days.
- C.** The registration may contain a written declaration, verified by the property manager, that the statements made therein are true.
- D.** The Bureau will prepare information containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, file a registration or to receive notice as provided in Section 6.06.090, will not relieve a person from the obligation to pay a license fee and register for a license under this Chapter.

**6.06.120 Interest on Delayed Application.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) When the time for filing a license registration is extended at the request of the applicant, interest at the rate specified in Subsection 6.06.150 B. will be added and paid on the license fee installment or portion thereof not paid within the time originally allowed.

**6.06.140 Fee Payment in Two Installments.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) Except as otherwise provided by Section 6.06.145, District license fees will be payable as follows:

- A.** Except as provided in Subsection F. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in two equal installments, with the first installment due on October 1 of the license year and the second installment due on April 1 of the license year.
- B.** On or before February 15 of each license year, the Bureau will mail notice to each licensee stating the amount of the second installment payable on April 1 of the license year.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060. If the licensee has not engaged in property management activities within the District until after the beginning of the license year and a transfer has been approved, then the fee payment required will be the next installment due, provided that the property management activities within the District began no later than the billing notice of the next installment.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee shall be payable in relation to any real property which, for that license year, has been paid by another licensee.

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- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
- 1.** The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
  - 2.** The amount of any adjustment increase allocable to the portion of the license year between April 1 and September 30 will be due on April 1 of the license year or 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, whichever is later, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
  - 3.** The amount of any adjustment decrease allocable to the portion of the license year between October 1 and March 31, provided that the amount previously determined to be due as of that October 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.; and
  - 4.** The amount of any adjustment decrease allocable to the portion of the license year between April 1 and September 30, provided that the amount previously determined to be due as of that April 1 has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

#### **6.06.145 Fee Payment in One Installment.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) If a qualified contractor for a District has filed a written request approved by resolution of the City Council that the District license fee be payable in one installment, District license fees for future license fee years will be payable as follows, until such time as the City Council by resolution determines that the District license fee will be payable in two installments in accord with Section 6.06.140:

- A.** Except as provided in Subsection E. of this Section, the license fee computed under a section of this Chapter establishing a license fee formula for the District will be payable in one installment due on October 1 of the license year.

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- B.** Each registration for a license, will be accompanied by payment of the license fee for the license year if known.
- C.** The property manager or licensee on record as of the billing date of the notice of fee each license year is presumed to be the responsible party for the entire license year unless the Bureau approves the transfer to another property manager or licensee under Section 6.06.060.
- D.** In computing the license fee payable by a licensee who has not engaged in District business property management activities until after the beginning of a license year, no fee will be payable in relation to any real property which, for that license year, has been included in computing the license fee payable by another licensee.
- E.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:
  - 1.** The amount of any adjustment increase for a license year will be due 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.
  - 2.** The amount of any adjustment decrease for a license year, provided that the amount previously determined to be due has already been paid, will be refunded to the licensee or credited to an outstanding installment amount due within 30 days after the Bureau's mailing of notice of the fee adjustment to the licensee under Section 6.06.095, subject to any change in the adjustment in an appeal under Subsection 6.06.100 B.

**6.06.150 Penalty and Interest on Failure to Pay Fee.**  
(Amended by Ordinance No. 185495, effective July 11, 2012.)

- A.** If a person:
  - 1.** Fails to file a correct registration at the time required by or under this Chapter; or
  - 2.** Fails to pay a fee installment at the time it becomes due, unless it is shown that the failure is due to reasonable cause and not due to neglect, then there will be added to the amount of a fee installment a penalty of:
    - a.** 5 percent of the amount of the unpaid fee installment, but not less than \$20, if the failure is for not more than 1 month; and
    - b.** Additional penalties of 5 percent of the unpaid fee installment for each additional month or fraction thereof during which the failure continues, up to a maximum of four (4) additional months.

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- B.** Interest will be collected on any unpaid fee installment at the rate of 10 percent simple interest per annum, computed on the balance still due at the end of each month following the date the fee installment became due. For purposes of this subsection, “unpaid fee installment” will not include penalties or interest.
- C.** If a person fails to file a registration on the prescribed date, as determined with regard to any extension for filing, the Bureau may determine the fee and fee installment payable. If the Bureau determines the fee and fee installment payable, the Bureau will determine appropriate penalties and interest and will send notice to the person of the determination.
- D.** The Bureau may apply payments to penalty and interest assessments before applying payments to fee installments due.

#### **6.06.160 Civil Penalties.**

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

- A.** The Manager may impose a civil penalty of up to \$500 for each of the following violations of this Chapter:
  - 1.** Failure to file any registration within 90 days of the Bureau’s original written notice to file;
  - 2.** Failure to pay any fee installment within 90 days of the Bureau’s original written notice for payment.
- B.** The Manager may only impose a civil penalty under this section if the Bureau gives notice of the potential for assessment of civil penalties for failure to comply in the original written preliminary determination notice issued under Sections 6.06.090 and 6.06.095.
- C.** The determination of a violation and imposition of a civil penalty under this Section will be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

#### **6.06.180 Severability.**

(Amended by Ordinance No. 185495, effective July 11, 2012) If any portion, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, and if such portion, clause, or phrase is not so substantial that the City Council would not have adopted this Chapter without it, then the remaining portions, clauses, and phrases will not be affected but will remain in full force and effect.

#### **6.06.190 Clean & Safe District.**

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

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- A.** The Clean & Safe District is that area within the boundaries formed by NW and SW Front Avenue on the east; SW Harrison between SW Front and SW 4th; SW 4<sup>th</sup> between SW Harrison and SW Market; SW Market between SW 4th and SW 9th; SW 9th between SW Market and SW Salmon; SW Salmon between SW 9th and SW 11th; SW 11th between SW Salmon and W Burnside; W Burnside between 11th and 9th; NW 9th between W Burnside and NW Hoyt; NW Hoyt between NW 9th and NW Broadway; and the Broadway Bridge on the north; but excluding the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.
- B.** Notwithstanding the exclusion set out in Subsection A. of this Section, beginning with the license year commencing October 1, 2004, the Clean & Safe District also will include the area known as 1800 SW First Avenue, more particularly described as part of Block 1, South Auditorium Addition, Blocks A, B, I, J and partial Block H (all comprising Tax Lot 2 of Block 1), at the southeast corner of the District.

**6.06.200 Clean & Safe District Fee Rates for Engaging in Business Property Management Activities.**

(Amended by Ordinance Nos. 175840, 176776, 176955, 179000 and 185495, effective July 11, 2012.)

- A.** The fee established by this Chapter for management of business property in the Clean & Safe District in a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
- 1.** \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
  - 2.** Plus \$5.52 per 290 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
  - 3.** Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
  - 4.** Plus 2.5 percent of the sum of Subsections A.1. through 3., as to any business property as to which the licensee is engaged in property management activities, if the business property is among the 50 District business properties used primarily for business activities with the highest value of improvements; and
  - 5.** Less 2.5 percent of the sum of Subsections A.1 through .3., as to any business property as to which the licensee is engaged in property

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management activities, if the business property is among the 51st to the 150th District business properties used primarily for business activities with the highest value of improvements;

6. Plus 15 percent of the amounts determined under subsections A.1. through 5.;
7. Plus \$.01401 (1.401 cents) per square foot of improvements and, for surface parking lots, per square foot of land square footage, as of the July 1 immediately preceding commencement of the license fee year;
8. Plus 20.03 percent of the amounts determined under Subsections A.1. through 7. which is the inflation that occurred during license years 2001 through 2011.
9. Plus the total of the amounts determined under Subsections A.1. through 7. multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2012.

**B.** “Value of improvements” under this Section will be measured as follows:

1. For business property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For business property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For business property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
  - a. For license fee years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development



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Review records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or

- b.** For license fee years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;
  - 4.** For business property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, “value of improvements” is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
  - 5.** For business property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, “value of improvements” is \$73 per square foot of improvements.
- C.** Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a business property building, structure, or addition for the property tax assessment year beginning on that July 1, then:
- 1.** For purposes of initially determining the license fee for such license year, the value of improvements, improvements square footage, and elevator

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capacity attributable to the business property building, structure, or addition will be deemed to be zero; and

2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy the building, structure, or addition as to which the property tax assessment was cancelled, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be the date the Bureau of Development Services issues a written authorization to occupy all new improvements on the business property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new improvements on the property, whichever occurs first.

#### **6.06.210 Clean & Safe District Fee Rates for Engaging in Residential Property Management Activities.**

(Amended by Ordinance Nos. 175840, 176955 and 185495, effective July 11, 2012.)

- A. The fee established by this Chapter for management of residential property in the Clean & Safe District for a license year, other than affordable residential rental property as defined in Section 6.06.211, will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
  1. \$.87 (cents) per \$1,000 of value of improvements, measured as set out in Subsection B. of this Section;
  2. Plus \$5.52 per 725 square feet of the sum of improvements and land square footage as of the July 1 immediately preceding commencement of the license fee year;
  3. Plus \$.46 (cents) per pound of elevator capacity as of the July 1 immediately preceding commencement of the license fee year;
  4. Plus 15 percent of the amounts determined under Subsections A.1. through 3.;

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5. Plus 20.03 percent of the amounts determined under Subsections A.1. through 4. which is the inflation that occurred during license years 2001 through 2011.
6. Plus the total of the amounts determined under Subsections A.1. through 4. multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2012.

**B.** “Value of improvements” under this Section will be measured as follows:

1. For residential property as to which, on or after July 1, 1994, there has been no physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1993-94 property tax assessment year;
2. For residential property as to which, on or after July 1, 1994 but before July 1, 1997, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is the assessed value of improvements for the 1996-97 property tax assessment year, discounted by 8.8 percent;
3. For residential property as to which, on or after July 1, 1997 but before July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land or in elevator capacity, “value of improvements” is:
  - a. For license years that commence before the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the amount determined under whichever of Subsections B.1. or 2. or C.1. otherwise would be applicable plus the cost of the physical changes as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such occupancy authorization date; or
  - b. For license years that commence after the January 1 immediately preceding the first property tax assessment year in which the assessment roll reflects the change or would reflect it were the property not assessed by the Oregon Department of Revenue, the assessed value of improvements for the first assessment year in

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which the assessment roll reflects the physical change or would reflect it were the property not assessed by the Oregon Department of Revenue, discounted by a percent equal to 8.8 percent plus an additional 2.9 percent for each year between the 1996-97 assessment year and such first assessment year;

4. For residential property as to which, on or after July 1, 2001, there has been physical change resulting in an increase or decrease in square footage of the sum of improvements and land square footage or in elevator capacity, but the physical change has not resulted in there being a new building on the property, "value of improvements" is the amount determined under whichever of Subsections B.1., 2., or 3. otherwise would be applicable, multiplied by a fraction the numerator of which is the square footage of improvements after the physical change and the denominator of which is the square footage of improvements prior to the physical change. For purposes of this Subsection and Subsection B.5. of this Section, building on a property will be considered new if the cost of the physical change, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical change, is more than 50 percent of the assessed value of improvements on the property immediately prior to the physical change;
  5. For residential property as to which, on or after July 1, 2001, there has been physical change that has resulted in there being a new building on the property, "value of improvements" is \$68 per square foot of improvements.
- C. Notwithstanding Subsections A. and B. of this Section, if as of July 1 immediately preceding commencement of a license year, the Multnomah County Assessor in accord with ORS 307.340 has cancelled the property tax assessment on a residential property building, structure, or addition subject to this Section, for the property tax assessment year beginning on that July 1, then:
1. For purposes of initially determining the license fee for such license year, the value of improvements, improvement square footage, and elevator capacity attributable to the building, structure, or addition will be deemed to be zero; and
  2. If, after that July 1 and prior to completion of such license year the City Bureau of Development Services issues an authorization to occupy new residential improvements on the property, then the license fee payable for such license year will be adjusted. For purposes of adjustment, value of improvements will be measured as set out in Subsection B. of this Section, improvements square footage will be measured as of the date of such authorization, and elevator capacity will be measured as of the date of such authorization. The adjusted license fee will be the amount determined under

Subsection A. of this Section multiplied by a fraction, the numerator of which is the number of whole and partial months after the date of such authorization remaining in the license year and the denominator of which is twelve. For purposes of this Subsection, the date of such authorization will be date the Bureau of Development Services issues a written authorization to occupy all new residential improvements on the property or the date 180 days after the Bureau issues a written authorization to occupy some but not all new residential improvements on the property, whichever occurs first.

**6.06.211      Clean & Safe District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.**

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

- A.**     The fee established by this Chapter for management of affordable residential rental property in the Clean & Safe District for a license year will be the sum of the following amounts, computed separately in relation to each such residential property within the District as to which the licensee is engaged in property management activities:

  - 1.**     If the licensee is a not-for-profit corporation or a government entity, \$20 multiplied by the number of affordable residential dwelling units managed by the licensee; and
  - 2.**     If the licensee is other than a not-for-profit corporation, \$44 multiplied by the number of affordable residential dwelling units managed by the licensee.
- B.**     For purposes of this Section, “affordable residential rental property” means single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on the July 1 immediately preceding commencement of the license year, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of that July 1. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing owned by non-profit organizations that is subsidized through charitable contributions and grants.
- C.**     For purposes of this Section, “dwelling units” means dwelling units as defined in Chapter 33.910 of this Code.

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#### **6.06.212 Clean & Safe District Exempt Property.**

(Amended by Ordinance Nos. 182925 and 185495, effective July 11, 2012.) The Clean & Safe District property management license requirements will not apply to exempt property. For purposes of this Section, “exempt property” means exempt property as defined in Subsection 6.06.020 I. and also means exempt residential property. “Exempt residential property” means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service.

#### **6.06.213 Computation of Clean & Safe District License Fee for Management of Mixed Use Properties.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) In computing Clean & Safe District property management license fees under Sections 6.06.200, 6.06.210, and 6.06.211, in relation to property within the District as to which the licensee is engaged in property management activities, where the property is a combination of any two or more of business property that is subject to Section 6.06.200, residential property that is subject to Section 6.06.210, residential property that is subject to Section 6.06.211, exempt property that is subject to Section 6.06.212, or property managed by a person generally exempt under Section 6.06.050 but where the exemption does not apply in relation to part of the property the person manages, the fee in relation to property management activities will be the sum of the following:

- A.** For management of the part of the property that is business property subject to Section 6.06.200, the fee computed under Section 6.06.200 computed as though the entire property were such business property, multiplied by a fraction, the numerator of which is the square footage of business property improvements on the property subject to Section 6.06.200 and the denominator of which is the square footage of all improvements on the property;
- B.** For management of the part of the property that is residential property subject to Section 6.06.210, the fee computed under Section 6.06.210 computed as though the entire property were such residential property, multiplied by a fraction, the numerator of which is the square footage of residential property improvements on the property subject to Section 6.06.210, and the denominator of which is the square footage of all improvements on the property; and
- C.** For management of the part of the property that is residential property subject to Section 6.06.211, the fee computed under Section 6.06.211.
- D.** If there are common area improvements in a property subject to this Section, then in computing square footage of business property improvements subject to Subsection A. of this Section and of residential property improvements subject to Subsection B. of this Section, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square

footage of business property improvements subject to Subsection A. of this Section or the square footage of residential property improvements subject to Subsection B. of this Section, whichever is appropriate, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.

**6.06.214 Clean & Safe District Square Footage of Improvements.**

(Added by Ordinance No. 176262; Amended by Ordinance No. 185495, effective July 11, 2012.) For purposes of Sections 6.06.200, 6.06.210 and 6.06.213 only, the terms "square footage of improvements" and "improvements square footage" will not include:

- A. Surface area of surface parking lots;
- B. Landscaped area;
- C. Unenclosed sidewalk, plaza, and courtyard area;
- D. Below grade parking area (but, for parking structures that have above grade parking, will include both any at grade parking area within the parking structure and all above grade parking area within the parking structure); and
- E. Other below grade area unless improved for occupancy by employees or tenants.

**6.06.215 Pledging of Clean & Safe District License Fee Revenues.**

(Amended by Ordinance Nos. 176776 and 185495, effective July 11, 2012.)

- A. In addition to the uses of District revenues set out in Section 6.06.010, the City, if so requested in writing by a qualified contractor and approved by the City Council, may pledge Clean & Safe District license fee revenues as security for City debt incurred to finance the design, acquisition, construction, and installation of improvements within the District and may pledge Clean & Safe District license fee revenues to a qualified contractor or its designee in order that the contractor or designee may have revenues sufficiently ensured to enable the contractor or designee to incur debt to finance the design, acquisition, construction, installation, operation and maintenance of improvements within the District. Any such pledge of Clean & Safe District license fee revenues will be subject to any limitations set out in Oregon law or in the City Charter. In addition, no City pledge or combination of pledges under this Section for City payment of actual debt service or to enable the qualified contractor or its designee to make payments of actual debt service, but not including pledges to provide excess coverage for City payment of actual debt service or to enable the qualified contractor or its designee to provide excess coverage for payments of actual debt service, at any time will exceed one-third of the Clean & Safe District license fee revenues.

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- B.** In making a request under Subsection A. of this Section, the qualified contractor will submit to the City a description of the improvements to be funded in whole or in part with the proceeds of the debt financing. The request also will include a description of any previously provided Clean & Safe District services proposed to be reduced or not provided due to the pledge of the District license fee revenues.
- C.** Notwithstanding Section 6.06.010, if the City pledges District license fee revenues for City debt incurred in accord with this Section, the City will retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

#### **6.06.216 Lighting and District Amenities Revenues and Program.**

(Added by Ordinance No. 176776; amended by Ordinance Nos. 179000, 185495 and 186288, effective November 15, 2013.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8.
- B.** As used in this Chapter, “lighting program” means the design, acquisition, construction, installation, operation, and maintenance of all components, including but not limited to electrical connections and decorative lighting fixtures, necessary for a seasonal and decorative lighting system within portions of the District.
- C.** As used in this Chapter, “district amenities revenue” means that portion of Clean & Safe District revenues collected under Subsection 6.06.200 A.7. as adjusted each year under Subsection 6.06.200 A.8. in excess of amounts necessary to fund the lighting program in Subsection B. in a given year.
- D.** As used in this Chapter, “district amenities program” means the design, acquisition, construction, installation, operation, and maintenance of all components of amenities that improve the safety, function, and appearance of downtown sidewalks including but not limited to:
  - 1.** Trash receptacles, including solar trash compactors;
  - 2.** Co-located publication boxes.
- E.** Notwithstanding Section 6.06.010, lighting revenues and district amenities revenues will be used only:
  - 1.** For the lighting program and district amenities program as set forth above, including but not limited to the pledging of such revenue as provided under Section 6.06.215;
  - 2.** For a proportionate share of the Bureau’s costs of administration of the license fee directed by the City Council to be recovered from license fee



revenues, based on the ratio of lighting revenue and district amenities revenues to total District revenues; or

3. If a qualified contractor determines that lighting revenue and district amenities revenues in a license year will exceed or have exceeded the costs and expenses of the lighting program and the district amenities program in that license year and that the excess revenues will not be needed to fund a prudent reserve or for the costs and expenses of the lighting program and district amenities program in future license years, then for distribution by the qualified contractor to the payers of the lighting revenues and district amenities revenues of that portion of the excess determined by the qualified contractor not to be so needed, in proportion to the amount paid by each payer in the license year that produced the excess.

**6.06.220 Clean & Safe District Periodic Sunset Review.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) During 2011 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Clean & Safe District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Clean & Safe District licensees under this Chapter.

**6.06.230 Clean & Safe District Early Termination.**

(Amended by Ordinance No. 185495, effective July 11, 2012.) If the City Council, on or before March 30 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Clean & Safe District property management license fee during that year, then the license fee for the Clean & Safe District will be terminated as of September 30 of that license fee year except that the fee will continue, at a rate reduced equally proportionally as to each licensee, to the extent necessary to meet any City pledge obligations incurred as authorized by Section 6.06.215.

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

(Added by Ordinance No. 185495; amended by Ordinance No. 187339, effective October 16, 2015.)

- 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 Division no later than June 10th. The resolution must contain the following information:

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- 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 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 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 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 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.

#### **6.06.250 Lloyd District.**

(Amended by Ordinance No. 186356, effective November 27, 2013.) The Lloyd District is that area within the boundaries formed by the Willamette River, from the Broadway Bridge to the point just south of the Oregon Convention Center at which NE Lloyd Boulevard reaches the River; NE Lloyd Boulevard, from the Willamette River to NE 16th Avenue; NE 16th Avenue curving into NE 15th Avenue, from NE Lloyd Boulevard to NE Halsey Street; NE Halsey Street, from NE 15th Avenue to NE Grand Avenue; NE Grand Avenue, from NE Halsey Street to NE Broadway; and NE Broadway, from NE Grand Avenue to the Willamette River.

#### **6.06.260 Lloyd Business District Fee Rates for Engaging in Property Management Activities.**

(Amended by Ordinance Nos. 176262, 176955, 182925, 185495 and 186356, effective November 27, 2013.)

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- A.** Except as set out in Subsection B. of this Section, the fee established by this Chapter for management of business and residential property in the Lloyd District for a license year will be the sum of the following amounts, computed separately in relation to each such property within the District as to which the licensee is engaged in property management activities:
1. \$.40 (cents) per \$1,000 of assessed value of improvements for the 2010-2011 property tax assessment year;
  2. Plus \$2.25 per 290 square feet of improvements as of July 1, 2010;
  3. Plus \$.015 (cents) per square foot of land as of July 1, 2010.
  4. Plus the total of the amounts determined under Subsections A.1. through A.3. multiplied by a 2.3 percent annual escalator for license years commencing on or after February 1, 2015.
- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 2010 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 2010, the fee established by this Chapter, for management of such property in the Lloyd District in a license year, will be as provided in this Subsection:
1. During the period between the date the City Bureau of Development Services issues an authorization, documentable by written documentation, to occupy the improvements, or during the period between 180 days after the date the Bureau of Development Services issues such an authorization to occupy any portion of the improvements that was not occupied while the physical changes were being made, and the date of beginning of the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee otherwise payable during the period will be adjusted to the following amount, prorated based on the number of days of the period in the applicable license year:
    - a. The amount determined under Subsection A.1., plus \$.40 (cents) per \$1,000 of the cost of the physical changes, as determined from the City Bureau of Development Services records of all building permits issued authorizing or in association with the physical changes;
    - b. Plus the amount determined under Subsection A.2., plus \$2.25 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of

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Development Services records of building permits issued authorizing or in association with the physical changes;

- c. Plus the amount determined under Subsection A.3.
  2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee will be:
    - a. \$.40 (cents) per \$1,000 of assessed value of improvements for the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
    - b. Plus \$2.25 per 290 square feet of improvements, as of July 1 of the first property tax assessment year in which the assessment roll reflects the physical changes or would reflect the changes were the property not assessed by the Oregon Department of Revenue;
    - c. Plus the amount set out in Subsection A.3.;
    - d. Plus the total of the amounts determined under Subsections B.2.a. through B.2.c. multiplied by a 2.3 percent annual escalator for the license years commencing on or after February 1, 2015.
- C. In computing the fee as provided in Subsection A. or B.:
  1. In relation to real property within the Lloyd District as to which a licensee is engaged in property management activities, where the property in part is exempt residential property or religious organization property or,
  2. In relation to persons generally exempt from the license requirements of this Chapter under Section 6.06.050 but where the exemption does not apply to property management activities in relation to part of the property they manage, the fee in relation to property management activities as to such real property will be the fee computed as though management of the entire property were subject to the fee multiplied by a fraction, the numerator of which is the square footage of the area in which the licensee is engaged in property management activities subject to the fee (including land or improvements, as applicable) and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable).
  3. In relation to property within the District as to which there is more than one property manager for a given property, the fee for each property manager will be calculated as follows:

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- a.** Each property manager's fee will first be computed as though the property manager was subject to the fee for the entire property. That amount will then be multiplied by a fraction, the numerator of which is the square footage of the area for which the property manager is engaged in property management activities subject to the fee (including land or improvements, as applicable), and the denominator of which is the square footage of the entire real property parcel (including land or improvements, as applicable); and
  - b.** If there are common area improvements in a property subject to Subsection a. above, then in computing square footage of each property manager's improvements, such square footage will be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements will be determined by multiplying the square footage of common area improvements by a fraction, the numerator of which is the square footage of the property improvements subject to this fee for each district manager, and the denominator of which is the square footage of all improvements on the property less the square footage of the common area improvements.
- D.** Notwithstanding the amount of the fee computed under Subsections A., B., and C., of this Section, in no case will the fee payable by a licensee, in relation to all real property within the Lloyd District as to which the licensee is engaged in property management activities, exceed \$35,000 for non-residential zoned property and \$8,500 for non-exempt residential zoned property.
- E.** The Lloyd District license requirements will not apply to exempt property. For purposes of this Section, "exempt property" means exempt property as defined in Section 6.06.020 I. and also means exempt residential property. For purposes of this Section, "exempt residential property" means a dwelling unit as defined in Chapter 33.910 of this Code that is owner-occupied and has its own separate water service; single room occupancy housing, as defined in Chapter 33.910 of this Code; low income housing; and subsidized housing. For purposes of this Subsection, low income housing is dwelling units available for rent at rates that are considered affordable, under federal affordability standards in effect on July 1, 1997, to persons earning 60 percent or less of the Portland region median income as identified in the records of Metro as of July 1 of each year. For purposes of this Subsection, subsidized housing is housing units available for rent at below market rates because either the units qualify for federal income tax benefits under Section 42 of the Internal Revenue Code, as in effect on January 1, 1997; or the units are subsidized through United States Department of Housing and Community Development Section 8 subsidies, as in effect on January 1, 1997, or other public or private organization subsidies. Subsidized housing includes but is not limited to student housing owned by the Oregon State System of Higher Education and housing

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owned by non-profit organizations that is subsidized through charitable contributions and grants.

- F. For purposes of this Section only, the terms "square feet of improvements" and "square footage of improvements" will not include:
1. Surface and structured parking lot area;
  2. Landscaped area;
  3. Unenclosed sidewalk, plaza, and courtyard area; and
  4. Below grade area unless improved for occupancy by employees or tenants.

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

(Amended by Ordinance Nos. 178073, 185495, 186356 and 187339, effective October 16, 2015.) 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 Division in a written policy.

#### **6.06.280 Lloyd District Periodic Sunset Review.**

(Replaced by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) During 2013 and each tenth year thereafter, the City Council will conduct a public hearing or hearings to determine whether the Lloyd District property management license fee should be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City will mail notice of the hearing to the then current Lloyd District licensees under this Chapter.

#### **6.06.290 Lloyd District Early Termination.**

(Added by Ordinance No. 178073; amended by Ordinance Nos. 185495 and 186356, effective November 27, 2013.) If the City Council, on or before July 31 of any license fee year, receives written objections signed in that license fee year by licensees responsible for more than 33 percent of the total revenues generated from the Lloyd District property management license fee during that year, then the license fee for the Lloyd District will be terminated as of January 31 of that license fee year.

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

(Added by Ordinance No. 186356; amended by Ordinance No. 187339, effective October 16, 2015.)

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- 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 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 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 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.

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### **CHAPTER 6.07 - TAX ON RECREATIONAL MARIJUANA SALES**

(Chapter added by Ordinance No. 186857; amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

#### **Sections:**

6.07.010	Purpose.
6.07.020	Definitions.
6.07.030	Levy of Tax.
6.07.035	Exemption of Medical Marijuana Cardholders from Marijuana Tax.
6.07.040	Deductions.
6.07.050	Seller Responsible for Payment of Tax.
6.07.060	Penalties and Interest.
6.07.070	Failure to Report and Remit Tax – Determination of Tax by Director.
6.07.080	Appeal.
6.07.090	Credits/Refunds.
6.07.100	Actions to Collect.
6.07.110	Violation Infractions.
6.07.120	Confidentiality.
6.07.130	Audit of Books, Records or Persons.
6.07.140	Forms and Regulations.
6.07.145	Net Revenues Distribution.
6.07.150	Invalidity.
6.07.155	Effective Date.

#### **6.07.010 Purpose.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) For the purposes of PCC 6.07, every person who sells recreational marijuana, or recreational marijuana-infused products, to consumers within the City is exercising a taxable privilege. The purpose of PCC 6.07 is to impose a tax upon recreational marijuana and recreational marijuana-infused product sales to consumers within the City.

#### **6.07.020 Definitions.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) When not clearly otherwise indicated by the context, the following words and phrases as used in PCC 6.07 have the following meanings:

- A. “Director”** means the director of the Revenue Division of the Bureau of Revenue and Financial Services or his/her designee, and includes any Person or entity with whom the City contracts to administer and enforce the Marijuana Tax program or a portion thereof.



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- B.** “**Consumer**” means a person who purchases, acquires, owns, holds or uses marijuana other than for the purpose of resale.
- C.** “**Marijuana**” means the plant of the Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” includes cannabinoid products, cannabinoid concentrates and cannabinoid extracts as those terms are defined in ORS 475B.015. Marijuana does not include industrial hemp, as defined in ORS 571.300.
- D.** “**Oregon Medical Marijuana Program**” means the office within the Oregon Health Authority that administers the provisions of ORS 475B.400 to 475B.525, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- E.** “**Person**” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
- F.** “**Retail sales price**” means the price paid for marijuana, excluding tax, to a Seller by or on behalf of a Consumer of marijuana.
- G.** “**Retail Sale**” means any transfer, exchange, gift or barter of marijuana by a seller to a consumer.
- H.** “**Seller**” means any person who is required to be licensed or has been licensed under ORS 475B.110 to sell marijuana to a consumer within the City of Portland.
- I.** “**Tax**” means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under PCC 6.07.
- J.** “**Taxpayer**” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of PCC 6.07.

**6.07.030 Levy of Tax.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** Every Seller exercising the taxable privilege of retail sales of marijuana within the City of Portland is subject to and must pay a tax for exercising that privilege.
- B.** The amount of tax levied is as follows: Three percent of the retail sales price paid to the Seller in a retail sale of marijuana to any Consumer.

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

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.)

- A.** As used in this Section, “designated primary caregiver,” “registry identification card” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.
- B.** Notwithstanding Section 6.07.030:
  - 1.** A tax is not imposed upon the retail sale of marijuana in the City of Portland by a Seller to a registry identification cardholder or to a designated primary caregiver who is purchasing marijuana for a registry identification cardholder; and
  - 2.** A Seller may not collect the tax imposed under Section 6.07.030 from a Consumer if, at the time at which the retail sale of the marijuana occurs, the Consumer provides proof to the Seller that the Consumer:
    - a.** Holds a valid registry identification card under ORS 475B.415; or
    - b.** Holds a valid identification card under ORS 475B.415 (5)(b) and is purchasing the marijuana for a registry identification cardholder.

#### **6.07.040 Deductions.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) The following deductions are allowed against sales received by the Seller providing marijuana:

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

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

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the tax. The Director may require further information in the return relevant to the

payment of the tax. A return is not considered filed until it is actually received by the director.

- B.** The Seller must remit to the Director the full amount of the tax collected for each month by the last day of the subsequent month. Payments must be remitted with forms provided by the Revenue Division or designee, specifying the total sales subject to PCC 6.07 and the amount of tax collected under PCC 6.07. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C.** The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.
- D.** If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to PCC 6.07 on the City's behalf until the Seller makes payment to the Director. A separate trust bank account is not required in order to comply with this provision, unless the Director determines one necessary to ensure collection of the tax.
- E.** Every Seller must keep and preserve in an accounting format established by the Director records of all sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years after the tax was due or paid, whichever is later, all such books, invoices and other records. The Director has the right to inspect all such records at all reasonable times.

**6.07.060 Penalties and Interest.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance Nos. 188215 and 189004, effective July 1, 2018.)

- A.** Any Seller who fails to remit any portion of any tax imposed by PCC 6.07 within the time required must pay a penalty of 5 percent of the unpaid tax, in addition to the amount of the tax.

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- B.** If any Seller fails to file any return for a period in excess of one month after the return due date, there shall be added to the amount of tax required to be shown on the return a failure to file penalty of 20 percent of the amount of the tax. Thereafter the Director or designee may send a notice and demand to the person to file a report or return within 30 days of the mailing of the notice. If after the notice and demand no report or return is filed within the 30 days, the Director or designee may determine the tax according to the best of its information and belief, assess the tax with appropriate penalty and interest plus an additional penalty of 25 percent of the tax deficiency determined by the department and give written notice of the determination and assessment to the person required to make the filing.
- C.** In addition to the penalties stated in PCC 6.07.060 A. and PCC 6.07.060 B., if tax returns are not filed by the due date for three consecutive years, a penalty of 100 percent of the unpaid tax will be assessed for each year.
- D.** If the Director determines that the nonpayment of any remittance due under PCC 6.07 is due to fraud, a penalty of 25 percent of the entire amount of the tax will be added thereto in addition to the penalties stated in PCC 6.07.060 A., PCC 6.07.060 B. and PCC 6.07.060 C.
- E.** In addition to the penalties imposed, any Seller who fails to remit any tax imposed by PCC 6.07 must pay interest at the annual rate of 5 percent on the amount of unpaid tax from the date on which the remittance first became delinquent until paid. The interest rate will remain at 5 percent unless this rate is adjusted under the administrative authority of the Director or designee to reflect then current national market conditions for interest rates.
- F.** All sums collected, including penalty and interest, will be distributed to the City's Recreational Cannabis Tax Fund.
- G.** Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the Director.

#### **6.07.070 Failure to Report and Remit Tax – Determination of Tax by Director.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A.** If any Seller fails to make any report of the tax required by PCC 6.07 within the time provided in PCC 6.07, the Director may proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Director procures such facts and information upon which to base the assessment of any tax imposed by PCC 6.07 and payable by any Seller, the Director may determine and assess against such Seller the tax, interest and penalties provided for by PCC 6.07.
- B.** If the Director makes a determination as outlined in PCC 6.07.070 A., the Director must give notice to the Seller of the amount assessed. The notice must be personally

served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.

- C. The Seller may appeal the determination as provided in PCC 6.07.080. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

**6.07.080 Appeal.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. Any Seller aggrieved by any decision of the Director with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the Director or designee.
- B. The Seller must follow the administrative appeal process that is set forth by the Director or designee.

**6.07.090 Credits/Refunds.**

(Amended by Ordinance No. 188215, effective March 3, 2017.)

- A. The Director may credit to the Seller any tax, interest or penalty amount under any of the following circumstances:
  - 1. The Seller has overpaid the correct amount of tax, interest or penalty; or
  - 2. The Seller has paid more than once for the correct amount owed; or
  - 3. The City has erroneously collected or received any tax, interest or penalties.
- B. If the Director determines the claim is valid, the claimant may take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City.
- C. In cases where a there is no future filing to claim the credit or other circumstances where a credit amount should be refunded, the claimant may petition the director to have the credit amount refunded to the claimant.

**6.07.100 Actions to Collect.**

Any tax required to be paid by any Seller under the provisions of PCC 6.07 is a debt owed by the Seller to the city. Any tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any person owing money to the City under the provisions of PCC 6.07 is liable to an action brought in the name of the City of Portland for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS

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697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees.

#### **6.07.110 Violation Infractions.**

- A.** All violations of PCC 6.07 are also subject to civil penalties of up to \$2,000 per occurrence. It is a violation of PCC 6.07 for any Seller or other person to:
  - 1.** Fail or refuse to comply as required herein;
  - 2.** Fail or refuse to furnish any return required to be made;
  - 3.** Fail or refuse to permit inspection of records;
  - 4.** Fail or refuse to furnish a supplemental return or other data required by the director;
  - 5.** Render a false or fraudulent return or claim; or
  - 6.** Fail, refuse or neglect to remit the tax to the City by the due date.
- B.** The remedies provided by PCC 6.07 are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C.** The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

#### **6.07.120 Confidentiality.**

(Amended by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of PCC 6.07. Nothing in PCC 6.07.120 prohibits any of the following:

- A.** The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B.** The disclosure of general statistics in a form which would not reveal an individual Seller's financial information; or
- C.** Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amounts due the city under PCC 6.07; or

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- D.** The disclosure of information to a collection agency in order to collect any delinquent tax amount; or
- E.** The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).
- F.** The Revenue Division may also disclose and give access to information described in PCC 6.07.120 to:
  - 1.** The City Attorney, his or her assistants and employees, or other legal representatives of the City, to the extent the Revenue Division deems disclosure or access necessary for the performance of the duties of advising or representing the Revenue Division, including but not limited to instituting legal actions on unpaid accounts.
  - 2.** Other employees, agents and officials of the City, to the extent the Revenue Division deems disclosure or access necessary for such employees, agents or officials to:
    - a.** Aid in any legal collection effort on unpaid accounts,
    - b.** Perform their duties under contracts or agreements between the Revenue Division and any other department, bureau, agency or subdivision of the City or state relating to the administration of PCC 6.07, or
    - c.** Aid in determining whether a Revenue Division account is in compliance with all city, state and federal laws or policies.

**6.07.130 Audit of Books, Records or Persons.**

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income tax return, bearing upon the matter of the Seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts and records for examination.

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

(Amended by Resolution No. 37217 (approved at November 8, 2016 election) and Ordinance No. 188215; effective March 3, 2017.)

- A.** The Director is authorized to enter into contracts or agreements relating to the administration of PCC 6.07, including intergovernmental agreements with the State of Oregon as provided in ORS 305.620, and to prescribe forms and promulgate rules, policies and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:
  - 1.** A form of report on sales and purchases to be supplied to all Sellers;
  - 2.** The records that Sellers providing, mixing, serving, or handling marijuana and marijuana-infused products must keep concerning the tax imposed by PCC 6.07.
- B.** Notwithstanding any other provisions in this Chapter, the State of Oregon, if appointed as the designee, may apply the provisions of ORS 475B.700 to ORS 475B.755 in the administration of the Portland tax.

#### **6.07.145 Net Revenues Distribution.**

(Added by Resolution No. 37217 (approved at November 8, 2016 election); amended by Ordinance No. 189004, effective July 1, 2018.) Net revenues remaining after collection, refunds, credits, and costs related to administration of the tax will be distributed by the City as follows:

- A.** In the course of developing the City's budget, the Bureau of Revenue and Financial Services shall report the projected balance in the Recreational Cannabis Tax Fund at the beginning of the next fiscal year.
- B.** Allocation of revenue from the Recreational Cannabis Tax Fund shall occur annually as part of the public budget adoption process followed by Council, with funding allocations made annually by City Council.
- C.** These funds shall be allocated in the Adopted Budget for the following purposes:
  - 1.** Drug and alcohol education and treatment programs, including but not limited to services that facilitate or increase access to drug and alcohol education and treatment, and programs that support rehabilitation and employment readiness.
  - 2.** Public safety, including police, fire, and transportation safety purposes that protect community members from unsafe drivers. Examples include but are not limited to police DUII training and enforcement, support for firefighter paramedics, street infrastructure projects that improve safety, and other initiatives to reduce impacts of drug/alcohol abuse.



3. Support for neighborhood small businesses, especially women-owned and minority-owned businesses, including but not limited to business incubator programs, management training, and job training opportunities; and providing economic opportunity and education to communities disproportionately-impacted by cannabis prohibition.

**6.07.150      Invalidity.**

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

**6.07.155      Effective Date.**

(Added by Resolution No. 37217 (approved at November 8, 2016 election); effective November 8, 2016.) This Chapter will be in full force and effect upon approval by the voters in the November 8, 2016 election. The tax levied in PCC 6.07.030 shall be imposed beginning on and after January 1, 2017. The Director is authorized to collect amounts receivable under this Chapter for taxes, interest and penalties.

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### CHAPTER 6.08 – CONSTRUCTION EXCISE TAX

(Chapter added by Ordinance No. 187855, effective  
August 1, 2016.)

#### Sections:

- 6.08.010 Purpose.
- 6.08.020 Definitions.
- 6.08.030 Administration and Enforcement Authority.
- 6.08.040 Administrative Authority Rulemaking.
- 6.08.050 Imposition of Tax.
- 6.08.060 Exemptions.
- 6.08.070 Failure to Pay.
- 6.08.080 Statement of Entire Value of Improvement Required.
- 6.08.090 Interest and Penalties for Failure to Comply.
- 6.08.100 Enforcement by Civil Action.
- 6.08.110 Refunds.
- 6.08.120 Appeals.
- 6.08.130 Dedication of Revenue.

#### **6.08.010 Purpose.**

This Chapter establishes a Construction Excise Tax on commercial and residential improvements to provide funding for affordable housing in the City of Portland. Chapter 6.08 of the City Code shall be known as the Construction Excise Tax.

#### **6.08.020 Definitions.**

(Amended by Ordinance No. 187975, effective September 7, 2016.) As used in this Chapter, unless the context requires otherwise:

- A. **“Commercial”** means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes.
- B. **“Construct” or “Construction”** means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law.
- C. **“Improvement”** means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or the addition of living space to an existing structure.
- D. **“Mass Shelters”** means a structure that contains one or more open sleeping areas, or is divided only by non-permanent partitions, furnished with cots, floor mats, or bunks. Individual sleeping rooms are not provided. The shelter may or may not have food preparation or shower facilities. The shelter is managed by a public or

non-profit agency to provide shelter. For mass shelters, “affordable” means that shelter is provided on a daily basis without a fee. The number of beds is determined by the maximum number of people who can be given overnight accommodations at one time on the site.

- E. “Median family income”** means median family income by household size for the Portland Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development as adjusted for inflation and published periodically.
- F. “Net Revenue”** means revenues remaining after the administrative fees described in Section 6.08.130 are deducted from the total Construction Excise tax collected.
- G. “Residential”** means structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.
- H. “Value of Improvement”** means the total value of the improvement as determined by the construction permit or building permit for the Improvement. The Bureau will calculate the total value by determining the value per square foot based on building type using the International Code Council Building Valuation Data Tables and multiplying that value by the area of the new structure or additional square footage from the exterior surface of the outside wall.

**6.08.030 Administration and Enforcement Authority.**

- A.** The Bureau of Development Services is responsible for the administration of this Chapter as described in Sections 6.08.050 and 6.08.060. In exercising the responsibilities of this section, the Bureau of Development Services may act through designated representatives.
- B.** Except as provided in Subsection 6.08.030 A., the Portland Housing Bureau is responsible for administration and enforcement of this Chapter. In exercising the responsibilities of this Section, the Portland Housing Bureau may act through designated representatives.

**6.08.040 Administrative Authority Rulemaking.**

(Amended by Ordinance No. 189078, effective July 18, 2018.)

- A.** The Director of the Portland Housing Bureau may adopt procedures, forms and written policies for administering the Construction Excise Tax. Authority granted to the Director of the Portland Housing Bureau under this Chapter 6.08 may be delegated, in writing, to employees or agents of the Portland Housing Bureau. The Director of the Portland Housing Bureau may adopt rules related to matters within the scope this Chapter 6.08, conforming to the intent and purpose of this Chapter

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6.08. Adoption of rules by the Director shall follow the procedures set forth in this Section.

#### **B. Permanent rules.**

- 1.** Prior to the adoption of a permanent rule, the Director will:
  - a.** Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Community & Civic Life at least thirty days before the hearing.
  - b.** At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
  - c.** The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
  - d.** If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
- 2.** Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.

#### **C. Interim rules.**

- 1.** The Director may adopt interim rules without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
- 2.** Interim rules may be effective for a period of no longer than 180 days.
- 3.** Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Community & Civic Life. Such

notice must also identify the location at which copies of the full set of the interim rules may be obtained.

- D.** All final and interim rules must be filed in the offices of the Portland Housing Bureau's Director. All final and interim rules will be made available to the public at the Development Services Center, and posted on the City's website.

**6.08.050 Imposition of Tax.**

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

**6.08.060 Exemptions.**

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** No tax imposed under this Chapter shall be imposed upon the following improvements:
- 1.** Improvements when the value of improvement is less than or equal to \$100,000;
  - 2.** Residential housing units guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income, for a period of at least 60 years following the date of construction of the residential housing;
  - 3.** Owner occupied residential properties qualifying under the property tax exemption program under Portland City Code Chapter 3.102.
  - 4.** Private school Improvements;
  - 5.** Public Improvements as defined in ORS 279A.010;
  - 6.** Public or private hospital Improvements;
  - 7.** Improvements to religious facilities primarily used for worship or education associated with worship;

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8. Agricultural buildings, as defined in ORS 455.315 (2)(a);
  9. Facilities operated by a not-for-profit corporation and that are:
    - a. Long term care facilities, as defined in ORS 442.015;
    - b. Residential care facilities, as defined in ORS 443.400;
    - c. Continuing care retirement communities, as defined in ORS 101.020; or
  10. Mass Shelters.
- B.** Until June 30, 2018, no tax shall be imposed under this Chapter 6.08 on accessory dwelling units as defined by PCC 33.910.
- C.** The Portland Housing Bureau may require any person seeking an exemption to demonstrate that the person is eligible for an exemption and to establish all necessary facts to support the exemption.

#### **6.08.070 Failure to Pay.**

The Bureau of Development Services may not issue a building permit to any person who has failed to pay the tax required by Section 6.08.050.

#### **6.08.080 Statement of Entire Value of Improvement Required.**

It is a violation of this Chapter 6.08 for any person to fail to state or to misstate the full value of the improvement.

#### **6.08.090 Interest and Penalties for Failure to Comply.**

(Amended by Ordinance No. 187975, effective September 7, 2016.)

- A.** Interest. If the Director of the Portland Housing Bureau determines that a person has failed to pay to the City all or any part of the construction excise tax due under this Chapter 6.08, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of the underpayment. Interest amounts properly assessed in accordance with this Section may not be waived or reduced by the Director.
- B.** Penalties. In addition to assessing interest, the Director of the Portland Housing Bureau may assess a penalty of five percent of the otherwise applicable tax liability upon:
1. Any person that initially qualifies for an exemption under Subsections 6.08.060 A.2., 6.08.060 A.3. and 6.08.060 A.10. and the housing units subsequently fail to qualify for the exemption;

2. Any person who intentionally fails to state the full value of an improvement.
- C. Penalties and interest merged with tax. Any accrued interest and imposed penalties under the provisions of this Section shall be merged with and become a part of the construction excise tax required to be paid under this Chapter 6.08. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new interest amounts.

**6.08.100 Enforcement by Civil Action.**

The construction excise tax, and any assessed interest and penalties, due and owing under this Chapter 6.08 constitutes a debt owing to the City by the person liable for the tax as set forth in Section 6.08.050.

**6.08.110 Refunds.**

- A. The Portland Housing Bureau shall issue a refund to any person who has paid a construction excise tax the amount of the tax actually paid:
  1. If the person establishes that the tax was paid for improvements that were otherwise eligible for an exemption under Section 6.08.060.
  2. If the person establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the Bureau of Development Services;
  3. Upon a determination by either the Director of the Portland Housing Bureau or the Code Hearings Officer that the amount of any construction excise tax, penalty, or interest has been erroneously collected or paid to the City under this Chapter 6.08.
- B. The Portland Housing Bureau shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Claims for refunds shall be made upon forms provided by the Portland Housing Bureau. The request for the refund must be submitted within three years from the date of payment of the construction excise tax.
- C. Denial of an application for refund may be appealed as provided for in Section 6.08.120.

**6.08.120 Appeals.**

- A. Administrative Review. Any written determination issued by either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08, believed to be in error may be reviewed by the Director of the

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Portland Bureau of Housing if requested in writing by the recipient. The request for administrative review must be received within 10 days of the determination, and must include all documentation supporting the request. The Director's determination in the administrative review shall be served by regular mail.

- B.** Appeals. Any written determination from either the Bureau of Development Services or the Portland Housing Bureau applying the provisions of this Chapter 6.08 regarding liability for payment of construction excise taxes, the valuation of may appeal such determination of the Director to the Code Hearings Officer of the City as provided in Chapter 22.10 of this Code.
- C.** The filing of any notice of appeal shall not stay the effectiveness of the written determination unless the Code Hearings Officer so directs.

#### **6.08.130 Dedication of Revenue.**

- A.** The Bureau of Development Services may retain up to 4 percent of the taxes collected for payment towards the Bureau's administrative expenses related to collection and distribution of the tax.
- B.** For the tax imposed on residential improvements, the net revenues will be distributed as follows:
  - 1.** Fifteen percent of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
  - 2.** Fifty percent of net revenue will be transferred to the Portland Housing Bureau Inclusionary Housing Fund to fund finance-based incentives for programs that require affordable housing.
  - 3.** Thirty-five percent of net revenue will be transferred to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.
- C.** For the tax imposed on commercial improvements, 100 percent of net revenue will be distributed to the Housing Bureau Inclusionary Housing Fund to support the production and preservation of affordable housing units at and below 60 percent median family income.



**CHAPTER 6.09 - NIGHTLY FEE ON SHORT-  
TERM RENTALS**

(Chapter added by Ordinance No. 189031, effective  
August 1, 2018.)

**Sections:**

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

**6.09.005 Purpose.**

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

**6.09.010 Definitions.**

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

- A. “Booking Agent” has the same meaning as the term defined in Section 6.04.010.
- B. “Division” means the Revenue Division of the City of Portland Bureau of Revenue and Financial Services, along with its employees and agents;
- C. “Division Director” and “Director” means the director of the Revenue Division of the City of Portland Bureau of Revenue and Financial Services or designee;
- D. “Guest” means a person who rents one or more rooms in a Short-Term Rental on a temporary basis, for any number of days. Any person who signs a monthly rental or fixed-term lease agreement is not considered to be a Guest, but is considered a tenant exercising Long-Term Occupancy.
- E. “Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and

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who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary;

- F. “Hotel”, for purposes of Chapter 6.09 only, means a commercially zoned structure that was built or remodeled to operate as a hotel or motel for transient lodging purposes.
- G. “Long-Term Occupancy” means a rental agreement between a property owner and a tenant with the intention of the rental period being an extended period of time, often months or years, governed by a verbal or written monthly rental agreement or a lease. Long-Term Occupancy established a person’s primary residence for voting and income tax purposes.
- H. “Transient Lodging Occupancy” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any Short-Term Rental or portion thereof. Transient Lodging Occupancy does not establish or change a person’s primary residence
- I. “Online Booking Site” means a hosting or other online website that provides a means through which a Host may offer to rent a Short-Term Rental unit for transient lodging or other short-term occupancy;
- J. “Person” has the same meaning as defined in Section 6.04.010.
- K. “Rent” has the same meaning as defined in Section 6.04.010.
- L. “Room” has the same meaning as defined in Section 6.04.010.
- M. “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- N. “Transient Lodgings Intermediary” means any Transient Lodging Intermediary, Transient Lodging Tax Collector or Transient Lodging Provider as defined in ORS 320.300

### **6.09.020 Fee Imposed.**

For the privilege of facilitating a Transient Lodging Occupancy of a Short-Term Rental within the City of Portland, a Booking Agent or Transient Lodging Intermediary shall pay to the City a fee of \$4 per night for each Transient Lodging Occupancy. This fee is due each night on any occupancy between one and 30 nights at a Short-Term Rental Accommodation. If the occupancy exceeds 30 continuous days, the fee is no longer due for any of the nights, and if collected, must be refunded to the Guest. This fee may be

passed onto the Guest if the receipt provided to the Guest separately states this nightly fee, identifying the fee as “Portland Housing and Homelessness Fee”. This fee is not assessed on Booking Agents or Transient Lodging Intermediaries who only facilitate the rental of rooms of a Hotel defined in Chapter 6.09. Additionally, Booking Agents or Transient Lodging Intermediaries who facilitate the rental of rooms of a Hotel as defined in Chapter 6.09, in addition to Short-Term Rentals are not required to collect this fee on Hotel room rentals.

**6.09.030      Administrative Authority.**

- A.**     The Revenue Division administers this Chapter. Nothing in this Chapter precludes the disposition of a controversy by stipulation or agreed settlement, through correspondence or a conference with the Director.
- B.**     The Director may implement procedures, forms and written policies for administering the provisions of this Chapter.
- C.**     The Director may adopt rules relating to matters within the scope of this Chapter or to obtain compliance with this Chapter.
  - 1.**     Before adopting a new rule, a public hearing must be held. The Director shall give reasonable notice of the hearing, not less than 10 nor more than 30 days before the hearing. The notice shall include the place, time, purpose of the public hearing, a brief description of the proposed rule(s) and where copies of the full text of the proposed rule(s) may be obtained.
  - 2.**     At the hearing, the Director must accept oral or written testimony concerning the proposed rule. The Director must either adopt the proposed rule, modify it or reject it, taking into consideration the testimony received during the hearing. Unless otherwise stated, all rules adopted by the Director are effective upon adoption.
  - 3.**     The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

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

- A.**     The fee imposed by this Chapter is due and payable on or before the last day of the month for the preceding month or other reporting period allowed by the Division. Amounts due are considered delinquent on the first of the month, or in the case when the due date falls on a Sunday or legal holiday as defined by ORS 187.010, amounts are delinquent on the first business day that follows.

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- B.** A return must be filed with the fee due on a form prescribed by the Division by the due date in Subsection A. above. Returns must show the amount of the fee owed for the period. The Division may require returns to include additional information to explain the fee calculation.
- C.** The Booking Agent or Transient Lodging Intermediary required to file the return must deliver the return, together with the remittance of the fee amount due, to the Division at its office, either by personal delivery or mail. If the return is mailed, the postmark will be considered the day of delivery for determining delinquencies.
- D.** For good cause, the Division may extend the time for making any return or payment of the fee due for one month. No further extension will be granted. Any Booking Agent or Transient Lodging Intermediary granted an extension will pay interest at the rate of 1.25 percent for the month on the amount of fee due without proration for a portion of a month or reduction for any prepayments or credits available. If an extension is granted and the assessment and interest due is not paid by the end of the extension period, then the interest will be added to the fee due for the computation of penalties and additional interest as detailed elsewhere in the Chapter.
- E.** The Division, if deemed necessary in order to ensure payment or facilitate collection by the Division of the fee in any individual case, may require returns and payment of fees due for other than monthly periods. If a Booking Agent or Transient Lodging Intermediary is required to report on a different basis, the Division will provide a schedule showing the filing periods, due dates and delinquent dates.

#### **6.09.050 Registration.**

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

#### **6.09.060 Penalties and Interest.**

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

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- B.** Continued Delinquency. Any Booking Agent or Transient Lodging Intermediary who fails to pay in full on or before the due date of an original delinquency notice will pay a second delinquency penalty of 15 percent of the amount of the fee due plus all penalty and interest assessments at the time of the continued delinquency.
- C.** Fraud. If the Division determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount due will be added in addition to late penalties stated in Subsections A. and B. of this Section and interest stated in Subsection D. of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculation.
- D.** Interest. In addition to the penalties imposed above, any Booking Agent or Transient Lodging Intermediary that fails to file or pay any fee imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount due from the first day following the original due date. Interest shall be compounded monthly until the amount due is paid in full.
- E.** Penalties and interest merge with fee. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with and become a part of the fee required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the fee due. This amount becomes the new base for calculation new penalty and interest amounts. This merging continues each month until the full balance is paid.
- F.** Petition for Waiver. Any Booking Agent or Transient Lodging Intermediary that fails to pay the fee within the time stated must pay the fee, penalties and interest assessed; however, the Booking Agent or Transient Lodging Intermediary may petition the Division for waiver and refund or credit of all or part of the penalty assessed and the Division may, if a good and sufficient reason is shown, waive some or all of the penalty assessment. Interest will not be waived except by written policy.

**6.09.070 Administration and Recordkeeping.**

- A.** Records. Booking Agents and Transient Lodging Intermediaries must keep appropriate records, including but not limited to accounting and bank records, detailed transaction information including Short-Term Rental location and number of nights rented during the period and any other documentation necessary to support the fee calculation and report filed or required to be filed. All records must be retained by the Booking Agent or Transient Lodging Intermediary for a period of 5 years and 6 months after the filing of the return, amended return or payment of the fee, whichever is later.

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- B.** Examination of records; investigations. The Division, or any person authorized in writing by it, may examine during normal business hours the books, papers, reservation records and accounting records relating to returns filed by Booking Agents or Transient Lodging Intermediaries, after notification by the Division and may investigate the business of the Booking Agent or Transient Lodging Intermediary in order to verify the accuracy of any return made or if no return is filed, to determine the amount required to be paid.
- C.** Should the City prevail in any legal proceedings in any state or federal court to collect the fees, penalties and interest assessed in accordance with this Chapter, the City shall be entitled to its reasonable costs and attorneys' fees.

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

- A.** Deficiency determinations. If the Division determines that a return is incorrect, that required reports or returns have not been filed or that a Booking Agent or Transient Lodging Intermediary has otherwise failed to comply with the terms of this Chapter, it may compute and determine or estimate the amount required to be paid based on the facts contained in the return or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable within 10 days. The Division may assess penalties and interest as set forth in Section 6.09.060.
  - 1.** The Booking Agent or Transient Lodging Intermediary may petition for a redetermination if the petition is filed with 10 days of the postmark date on the written deficiency notice. Nothing prohibits the Division from extending the time for petition beyond 10 days at its sole discretion.
  - 2.** Every deficiency determination must be made and notice mailed within five years after a return was originally filed, subsequently amended or the tax was paid, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return or willful refusal to remit the fee, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced at any time and is not subject to the 5-year limitation above.
- B.** Any Booking Agent or Transient Lodging Intermediary against whom a deficiency determination is made or civil penalties are assessed under Section 6.09.100 may petition for a redetermination within the time required in this Section. If a petition for redetermination is filed timely, the Director will consider the deficiency determination or civil penalties and, if requested in the petition, will grant an oral hearing and give 10 days' notice of the time and place of the hearing.

1. The Director may adjust the amount of the deficiency determination as a result of the hearing and, if an increase is determined, such increase will be payable immediately after the hearing.
  2. The Director's order or decision becomes final 10 days after service upon the petitioner unless an appeal is filed with the Business License Appeals Board or Hearings Officer, if applicable, within 10 days of the postmark date on the written order.
  3. No petition for redetermination or other appeal will be accepted and no petition or appeal is effective for any purpose unless the Booking Agent or Transient Lodging Intermediary has first paid in full the amount determined to be due in the deficiency determination or civil penalty assessment that is being appealed.
- C. Appeals of penalty and/or interest assessments are not subject to the appeals process outlined in Section 6.09.090. The decision of the Director regarding penalty and interest assessments is final.

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

Any Booking Agent or Transient Lodging Intermediary aggrieved by a decision of the Division or Director made pursuant to this Chapter may appeal as allowed in Section 6.04.140 by filing a notice of appeal with the Division Director within 10 days of the service of the notice of a decision. Any hearing will be scheduled by the Business License Appeals Board or Hearings Officer in accordance with rules pertaining to such appeals. The procedures and rules of Section 6.04.140 will apply to any such appeal.

**6.09.100 Civil Penalties.**

- A. The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any fee within 60 days of the Due Date provided in Section 6.09.040.
- B. Failure to separately state on the guest receipt the per night privilege charge if the charge is being passed through to the guest as an additional charge or fee.
- C. The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal pursuant to Section 6.09.090.

