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

Sections:

- 6.04.010 Definitions.
- 6.04.020 Tax Imposed.
- 6.04.030 Collection of Tax by Operator; Rules for Collection.
- 6.04.040 Operator's Duties.
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- 6.04.150 Appeal to Business License Appeals Board, Hearings Officer.
- 6.04.170 Violations.

6.04.010 Definitions.

(Amended by Ordinance No. 162647; effective January 4, 1990.) Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

- A. **"Accrual accounting"** means the operator enters the rent due from a transient on his/her records when the rent is earned, whether or not it is paid.
- B. **"Bed and Breakfast Home"** means a home where a resident individual or family rents out guest bedrooms (no more than two) in their house, which is continually occupied as their primary residence.
- C. **"Bed and Breakfast Inn"** means a home where a resident individual or family rents out guest bedrooms (between three and six) in their house, which is continually occupied as their primary residence.

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- D.** “**Bureau**” means the Bureau of Licenses of the City of Portland.
- E.** “**Bureau Director**” means the director of the Bureau of Licenses, or his/her designee.
- F.** “**Business License Appeals Board**” means a Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- G.** “**Cash accounting**” means the operator does not enter the rent due from a transient on his/her records until rent is paid.
- H.** “**City Council**” means the City Council of the City of Portland, Oregon.
- I.** “**Hotel**” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- J.** “**Occupancy**” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.
- K.** “**Operator**” means the person who is proprietor of the hotel in any capacity. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this Chapter by either the principal or managing agent shall be considered to be compliance by both.
- L.** “**Person**” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- M.** “**Rent**” means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

- N. “Rent package plan”** means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this Chapter shall be the same charge made for rent of the identical room when it is not a part of a package plan.
- O. “Tax”** means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he/she is required to report his/her collections.
- P. “Transient”** means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered.

6.04.020 Tax Imposed.

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

6.04.030 Collection of Tax By Operator; Rules for Collection.

- A.** Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempted under the terms of this Chapter, shall collect a tax from the transient. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.

- B.** In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.
- C.** The Bureau shall enforce provisions of this Chapter and shall have the power to adopt rules and regulations not inconsistent with this Chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Bureau shall give public notice of its intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Chapter to violate rules and regulations duly adopted by the Bureau.
- D.** For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

6.04.040 Operator's Duties.

Each operator shall collect the tax imposed by this Chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Chapter.

6.04.050 Exemptions.

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

- A.** Any occupant for more than 30 successive calendar days (a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall not be deemed a transient);
- B.** Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof, except Bed and Breakfast Homes and Inns;
- C.** Any occupant in a hospital room, medical or mental health facility, convalescent home, home for aged people, or a government owned and operated public institution.
- D.** Any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds;

- E.** Any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.

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

- A.** Every person engaging or about to engage in business as an operator of a hotel in this City shall register with the Bureau on a form provided by the Bureau. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place of business and such other information to facilitate the collection of the tax as the Bureau may require. The registration shall be signed by the operator.
- B.** The Bureau shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Bureau upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all occupants and persons seeking occupancy.
- C.** Said certificate shall, among other things, state the following:
 - 1.** The name of the operator;
 - 2.** The address of the hotel;
 - 3.** The date upon which the certificate was issued;
 - 4.** “This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the City of Portland for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Portland. This certificate does not constitute a permit.”

6.04.070 Due Date; Returns and Payments.

- A.** The tax imposed by this Chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on the 15th day of the following month for the preceding 3 months; and are delinquent on the last day of the month in which they are due. If the last day of the month falls on a holiday or weekend, amounts are delinquent on the first business day that follows. The Bureau has authority to classify and/or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this Chapter may be for less than 3 months preceding the due date; thereafter returns shall be made for the applicable quarterly period.
- B.** On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the Bureau. The return shall be filed in such form as the Bureau may prescribe by every operator liable for payment of tax.
- C.** Returns shall show the amount of tax collected or otherwise due for the related period. The Bureau may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.
- D.** The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Bureau 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 Bureau may extend for not to exceed 1 month the time for making any return or payment of tax. No further extension shall be granted, except by the Bureau Director. Any operator to whom an extension is granted shall pay interest at the rate of 1.25 percent per month on the amount of tax due without proration for a portion of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall be added to the tax due for computation of penalties described elsewhere in this Chapter.
- F.** The Bureau, if deemed necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

6.04.080 Penalties and Interest.

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

6.04.090 Deficiency Determination; Fraud, Evasion, Operator Delay.

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

- A.** Deficiency determinations. If the Bureau 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

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in the return or returns or any other information reasonably within its possession. Once a deficiency determination is made, the amount is due and payable ten days after service of a deficiency notice from the Bureau. The Bureau may also determine and assess penalties and interest as set forth in Section 6.04.080.

1. In making a determination, the Bureau may offset overpayments, if any, which may have been previously made for a period or periods against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
 2. The Bureau shall give to the operator or transient (in the case of a refund request) a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Bureau or as the Bureau can best determine if the operator has not provided that information to the Bureau. In case of service by mail or any notice required by this Chapter, the service is complete at the time of deposit with the United States Post Office.
 3. Any deficiency is due and payable 10 days after the Bureau serves its written notice. The operator or transient (in the case of a refund request) may petition for a redetermination if the petition is filed within 10 days of service as provided in Section 6.04.100. Nothing prohibits the Bureau from extending the time for petition beyond 10 days at its discretion.
 4. Except as provided herein, every deficiency determination shall be made and notice mailed within 3 years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of such deficiency may be commenced, at any time.
- B.** Operator delay. If the Bureau believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, the Bureau may make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Bureau after service of notice thereof; provided, however, the operator may petition, after payment has been made, for a redetermination of the Bureau's assessment, if the petition is filed within 10 days from the date of the written notice from the Bureau.

6.04.100 Redeterminations.

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

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

6.04.110 Security for Collection of Tax.

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

6.04.120 Refunds.

- A.** Refunds by City to operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Bureau under this Chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim

is founded, is filed with the Bureau within 3 years from the date of payment. The claim shall be made on forms provided by the Bureau. If the claim is approved by the Bureau, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.

- B.** Refunds by City to transient. Whenever the tax required by this Chapter has been collected by the operator, and deposited by the operator with the Bureau, and it is later determined that the tax was erroneously or illegally collected or received by the Bureau, it may be refunded by the Bureau to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Bureau within 3 years from the date of payment.
- C.** Refunds by operator to tenant. Whenever the tax required by this Chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as transient. The operator shall account for such collection and refund to the Bureau. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this Section.

6.04.130 Administration.

- A.** Records required from operator, et cetera; form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of 3 years and 6 months after they come into being.
- B.** Examination of records; investigations. The Bureau, or any person authorized in writing by it, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- C.** At any time within 3 years after any tax or any amount of tax required to be collected becomes due and payable or at any time within 3 years after any determination becomes final, the Bureau may bring an action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.
- D.** Confidential financial information. Except as otherwise required by law, it shall be unlawful for the Bureau, the Auditor, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information

submitted or disclosed to the Bureau under the terms of Chapter 6.04, Transient Lodgings Tax. Nothing in this subsection shall be construed to prohibit:

1. The disclosure to, or the examination of, financial records by City officials, employees or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting taxes imposed under the terms of this Chapter, or collecting City business license fees; or
2. The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of transient lodgings taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Bureau Manager; or
3. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued; or
4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
5. The disclosure of financial information to the City Attorney or other legal representatives of the City, to the extent the Bureau deems disclosure or access necessary for the performance of the duties of advising or representing the Bureau.

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

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

- A. Except as provided herein, the Business License Appeals Board has authority to hear and determine appeals of orders or decisions of the Bureau or Bureau Director made upon petitions for redetermination of tax. The Board may affirm, modify, or reverse such orders or decisions or dismiss the appeals and prescribe such forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the Bureau or Bureau Director's decision or order, the Board may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of a notice of the Bureau or Bureau Director's decision and shall file a copy of each such determination with the Bureau. Such determination shall become final after 10 days and any increase to the determination becomes due and payable once final, subject to interest and penalties, and enforceable by the Bureau in like manner as an order or decision of the Bureau or Bureau Director.

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- B.** For an amount in controversy greater than \$10,000 and less than \$50,000, an appellant may request a hearing by an appointed Hearings Officer instead of a hearing by the Business License Appeals Board.
- C.** An appeal involving an amount in controversy greater than \$50,000 shall be heard by a Hearings Officer instead of a hearing by the Business License Appeals Board. The Hearings Officer shall be appointed by the City Attorney, shall be a member of the Oregon State Bar and shall not be a City employee.
- D.** In appeal hearings held before a Hearings Officer, the appellant and the City's representative shall each have the right to appear in person and be represented by legal counsel, to receive notice, to respond to and present evidence, to call and cross-examine witnesses under oath and to present argument on all issues involved. Subject to the provisions herein, the City Attorney may promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings, and the preparation and submission of the record.
- E.** The record in a proceeding before the Hearings Officer shall include:

 - 1. All pleadings, motions, and intermediate rulings;
 - 2. Evidence received or considered;
 - 3. Stipulations;
 - 4. A statement of matters officially noticed;
 - 5. Questions and offers of proof, objections, and rulings thereon;
 - 6. Proposed findings and exceptions; and
 - 7. Any proposed, intermediate, or final order prepared by the Hearings Officer.
- F.** The Hearings Officer shall have the power to compel attendance of witnesses by deposition or at hearing and the production of documents by subpoena to any party upon showing of general relevance and subpoena in accordance with civil law.
- G.** The formal rules of evidence shall not apply and any relevant evidence that is the sort of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of serious business affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Hearsay evidence may be considered by the Hearings Officer, but no findings may be based solely on

hearsay evidence unless supported or corroborated by other relevant and competent evidence. The Hearings Officer shall give effect to the rules of privilege recognized by law.

- H.** The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of City employees.
- I.** A verbatim, written, mechanical, or electronic record shall be made on all motions, rulings, and testimony if requested by any party. The record shall be transcribed for the purposes of court review. If the City prevails on such review, the reasonable costs of preparing the transcript shall be allowed as a part of the City's costs in such action.
- J.** The Hearings Officer is authorized to rule upon issues of law or fact and to determine the amount of the tax, penalty or interest due in accordance with the Transient Lodgings Tax Law. The Hearings Office shall not have any jurisdiction to waive, mitigate or suspend the collection of any tax, penalty or interest found to be duly imposed.
- K.** The decision of the Hearings Officer shall be issued in writing in a final order. The final order shall become final on the date specified in the order, which date shall be within 30 days after the conclusion of the hearing. The decision shall be the final administrative remedy of the appellant. Any amounts due shall be payable to the City Treasurer within 10 days of the order becoming final. The Hearings Officer shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

6.04.150 Appeal to Business License Appeals Board, Hearings Officer.

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

6.04.160 Appeals to City Council.

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

6.04.170 Violations.

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a

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supplemental return or other data required by the Bureau or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this Chapter. The Bureau Director may impose a civil penalty of up to \$500.00 for each violation of this Chapter. A violation includes, but is not limited to:

- A.** Failure to file any required Transient Lodgings Tax payment and 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 with the Bureau as described in Section 6.04.060; and
- D.** Failure to maintain a separate account for the transient lodgings tax collected.

Chapter 6.06

**DISTRICT PROPERTY
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(New Chapter substituted by Ordinance No.
175729, effective July 27, 2001.)

Sections:

- 6.06.010 License Required.
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- 6.06.030 Authority of Manager to Adopt Rules, Procedures, and Forms.
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- 6.06.050 Exemptions from License Requirements.
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6.06.010 License Required.

Any person engaged in property management activities within a District shall obtain a license for such activities covering each license year, or if application is made after the beginning of a license year, then for the balance of the license year. The term “license,” as used in this Chapter, shall not be construed to mean a permit. 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 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.

6.06.020 Definitions.

(Amended by Ordinance No. 182925, effective July 17, 2009.) As used in this Chapter, unless the context requires otherwise, the terms used in this Chapter shall be defined as follows:

- A.** “Assessed Value of Improvements” means, for property tax years beginning on or before July 1, 1996, the assessed value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year and, for property tax years beginning on or after July 1, 1997, the real market value of improvements as recorded in the assessment roll for Multnomah County for a specified assessment year; or, as to property assessed by the Oregon Department of Revenue, the real market value of the property where “real market value” means the minimum amount in cash which could be reasonably expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm’s length transaction during that assessment year.
- B.** “Bureau” means the Bureau of Licenses of the City of Portland, along with its employees and agents;

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- 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 shall be treated as a single property;
- D.** “CPI-W” means the Consumer Price Index for Urban Wage Earners and Clerical Workers for Portland-Salem, OR-WA, for January of each year as published 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 for the January immediately preceding the commencement of that license fee year and the denominator is the CPI-W for January 2000, with the January 2000 CPI-W adjusted from time to time as necessary to reflect any change by the United States Bureau of Labor Statistics in the CPI-W reference base;
- F.** “District” means a business 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;

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- b.** Being responsible for waste disposal service provided to a building, including common areas, or, if there is no building, to land;
 - c.** Being responsible for providing fire insurance for a building;
 - d.** Being responsible for repair and maintenance of a building;
 - e.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a building, including common areas; and
 - f.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a building, such as alarm systems and sprinklers.
- 4.** Notwithstanding Subsections 1. through 3. of this Subsection, being an owner of property whose activities in relationship to the property consist only of activities that the owner is mandated by law to carry out shall 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.

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- J.** “Licensee” means a person licensed to engage in property management activities within the District under this Chapter;
- K.** “Manager” means the Manager of the Bureau of Licenses or his or her designee;
- L.** “Notice” means a written document mailed by the Bureau by first class mail to the last known address of a licensee as provided to the Bureau in the latest application on file at the Bureau; or, if mailed to a person who is not a licensee, then to the last known address of the person as provided to the Bureau of Water Works or, if that Bureau has no address record, as provided to the Bureau of Licenses in the latest general business license application on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;
- M.** “Person” means a natural person, 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 shall 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.

- 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 shall be conducted. The Manager shall 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 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 Manager shall hear statements or receive written comment concerning the proposed rules. The Manager 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 Manager. All rules adopted by the Manager shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.
3. Notwithstanding Sections 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 shall be effective for a period of not longer than 180 days.

6.06.040 License.

No person shall engage in property management activity within the District unless such person first shall have paid a license fee installment as described in Section 6.06.140 and obtained a license under this Chapter.

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.

- A. Except as provided in this Section, no license shall be transferable from one person to another.

- B.** The Bureau shall 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 shall be reported to the Bureau on a form provided by the Bureau and shall be effective when the Bureau approves the form as complete. The licensee shall be responsible for any license fee installments which become payable prior to the Bureau's approval; and the transferee shall be responsible for any license fee installments which become payable after the Bureau's approval.

6.06.070 Contents of License.

Each license issued under this Chapter shall state upon its face the following:

- A.** The name of the licensee;
- B.** The address of the principal office of the licensee within the City, if there is such a principal office, and the licensee's mailing address.
- C.** The date of expiration of the license; and
- D.** Such other information as the Bureau shall determine.

6.06.080 License Term.

- A.** Each license issued under this Chapter shall 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 shall expire on the first September 30 following the date on which the license was issued.
- B.** Notwithstanding the expiration of a license term, no person shall be in violation of any provision of this Chapter on account of the person not having renewed a license during the period of time permitted under Section 6.06.140 for the filing of a renewal application, provided that the renewal application shall have been filed before the end of the period.

6.06.090 Preparation and Notice of Fee.

On or before August 1 of each year, the Bureau shall 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 shall 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:

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- 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 Section 6.06.020.H 1.-3.;
- D.** The activities which do not constitute being engaged in property management activities, as defined in Section 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 not later than 30 days after the notice is mailed. An appeal form shall be enclosed with the notice.

6.06.095 Preparation and Notice of Fee Adjustment.

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, shall make a preliminary determination of the license fee adjustment for the balance of the license year. The Bureau shall mail to the licensee a notice which contains the following information:

- 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 licensee'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 on an enclosed form not later than 30 days after the notice is mailed.

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

6.06.100 Appeals.

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A.** Persons to whom the Bureau mails notices under Section 6.06.090 shall 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 on a form provided by the Bureau not later than 30 days after the date of mailing of the notices.
- B.** Persons to whom the Bureau mails notices under Section 6.06.095 shall 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 on a form provided by the Bureau 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 Section 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.
- 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 licensee 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 shall 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 shall 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 shall give the appealing person written notice of the determination and the reasons, by mail or personal delivery. The Bureau's determination shall be final.

6.06.110 Application for License.

- A.** All persons required to obtain a license under this Chapter shall apply to the Bureau on forms provided by the Bureau. Applications shall be filed, together with the specified license fee installment:
- 1.** Before the applicant engages in property management activities in the District; or
 - 2.** In the case of an application for renewal of a prior license, prior to commencement of the new license year.
- B.** The Bureau may, for good cause, allow further time for filing applications, except that no extension may be granted for more than 30 days.
- C.** The application shall contain a written declaration, verified by the applicant, that the statements made therein are true.
- D.** The Bureau shall prepare applications containing appropriate data and fee calculations and make them available at its office, on request. Failure to receive or secure a form, or to receive notice as provided in Section 6.06.090, shall not relieve a person from the obligation to pay a license fee and obtain a license under this Chapter.

6.06.120 Interest on Delayed Application.

When the time for filing a license application is extended at the request of the applicant, interest at the rate specified in Section 6.06.150 B. shall 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.

Except as otherwise provided by Section 6.06.145, District license fees shall 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 shall 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.** Each application for a license, other than a renewal application, shall be accompanied by payment of the first installment for the license year. If the licensee has not engaged in property management activities within the District until after the beginning of a license year, then the fee payment required shall be the installment that would be due for the installment period in which the licensee becomes engaged in District property management activities, multiplied by a fraction, the numerator of which is the number of whole and partial months remaining in the installment period following the engagement in the activities and the denominator of which is six.
- C.** Each application for a renewal license shall be accompanied by payment of the first installment of the fee for the license year.
- D.** On or before February 15 of each license year, the Bureau shall mail notice to each licensee stating the amount of the second installment payable from the licensee on April 1 of the license year. The licensee shall pay the second installment on or before April 1 of the license year, accompanied by such form as the Bureau shall provide.
- E.** 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 included in computing the license fee payable by another licensee.
- F.** In case of a license fee adjustment under a subsection of this Chapter establishing a license fee formula for the District:

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1. The amount of any adjustment increase allocable to the portion of the license year between October 1 and March 31 shall 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 Section 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 shall 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 Section 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, shall be refunded to the licensee 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 Section 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, shall be refunded to the licensee 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 Section 6.06.100 B.

6.06.145 Fee Payment in One Installment.

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 shall be payable as follows, until such time as the City Council by resolution determines that the District license fee shall 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 shall be payable in one installment due on October 1 of the license year.
- B. Each application for a license, other than a renewal application, shall be accompanied by payment of the license fee for the license year. If the licensee has not engaged in property management activities within the District until after the beginning of a license year, then the fee payment required shall be the payment

that would be due for the license year in which the licensee becomes engaged in District property management activities, multiplied by a fraction, the numerator of which is the number of whole and partial months remaining in the license fee year following the engagement in the activities and the denominator of which is twelve.

- C.** Each application for a renewal license shall be accompanied by payment of the license fee for the license year.
- 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 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 shall 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 Section 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, shall be refunded to the licensee 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 Section 6.06.100 B.

6.06.150 Penalty and Interest on Failure to Pay Fee.

- A.** If a person:
 - 1.** Fails to file a correct application 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 shall be added to the amount of a fee installment a penalty of:
 - a.** 5 percent of the amount of the fee installment, but not less than \$20, if the failure is for not more than 1 month; and

- b.** Additional penalties of 5 percent for each additional month or fraction thereof during which the failure continues, provided that such additional penalties shall in no event exceed 20 percent of the fee installment.
- B.** Interest shall 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” shall not include penalties or interest.
- C.** If a person fails to file an application 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 shall determine appropriate penalties and interest and shall send notice to the person of the determination.

6.06.160 Civil Penalties.

- 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 application within 90 days of the Bureau’s original written request to file;
 - 2.** Failure to pay any fee installment within 90 days of the Bureau’s original written request 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 request.
- C.** The determination of a violation and imposition of a civil penalty under this Section shall be subject to appeal to the Code Hearings Officer under the provisions of Chapter 22.10 of this Code.

6.06.180 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.

6.06.190 Downtown Business District.

- A.** The Downtown Business 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 4th 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 Downtown Business District also shall 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 Downtown Business District Fee Rates for Engaging in Business Property Management Activities.

(Amended by Ordinance Nos. 175840, 176776, 176955 and 179000, effective December 22, 2004.)

- A.** The fee established by this Chapter for management of business property in the Downtown Business District in a license year shall 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

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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 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. With the total of the amounts determined under Subsections A.1. through 7. being multiplied by the CPI-W factor, for license fee years commencing on or after October 1, 2001.

B. “Value of improvements” under this Section shall 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

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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 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 shall 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 \$73.00 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 Count 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 capacity attributable to the business property building, structure, or addition shall 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 shall be adjusted. For purposes of adjustment, value of improvements shall be measured as set out in set out in Subsection B. of this Section, improvements square footage shall be measured as of the date of such authorization, and elevator capacity shall be measured as of the date of such authorization. The adjusted license fee shall 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 shall be 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 Downtown Business District Fee Rates for Engaging in Residential Property Management Activities.

(Amended by Ordinance Nos. 175840 and 176955, effective October 9, 2002.)

- A. The fee established by this Chapter for management of residential property in the Downtown Business District for a license year, other than affordable residential rental property as defined in Section 6.06.211, shall 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;

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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.;
5. With the total of the amounts determined under Subsections A.1. through 4. being multiplied by the CPI-W adjustment factor, for license fee years commencing on or after October 1, 2001.

B. “Value of improvements” under this Section shall 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

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- 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 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 shall 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 \$68.00 per square foot of improvements.
- 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 shall 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 shall be adjusted. For purposes of adjustment, value of improvements shall be measured as set out in set out in Subsection B. of this Section, improvements square footage shall be measured as of the date of such authorization, and elevator capacity shall be measured as of the date of such authorization. The adjusted license fee shall 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 shall 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 Downtown Business District Fee Rates for Engaging in Affordable Residential Rental Property Management Activities.

- A. The fee established by this Chapter for management of affordable residential rental property in the Downtown Business District for a license year shall 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, \$20.00 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, \$44.00 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.

6.06.212 Downtown Business District Exempt Property.

(Amended by Ordinance No. 182925, effective July 17, 2009.) The Downtown Business District property management license requirements shall 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. “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 Downtown Business District License Fee for Management of Mixed Use Properties.

In computing Downtown Business 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 shall 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 shall be deemed to include an allocated portion of the common area improvements. The allocated portion of common area improvements shall 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 Downtown Business District Square Footage of Improvements.

(Added by Ordinance No. 176262, effective February 13, 2002.) 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" shall 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, shall 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 Downtown Business District License Fee Revenues.

(Amended by Ordinance No 176776, effective July 31, 2002.)

- 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 Downtown Business 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 Downtown Business 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 Downtown Business District license fee revenues shall 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 shall exceed one-third of the Downtown Business District license fee revenues.

- B.** In making a request under Subsection A. of this Section, the qualified contractor shall 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 shall include a description of any previously provided Downtown Business 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 shall retain the pledged portion of the District license fee revenues, to be used for repayment of the debt.

6.06.216 Lighting Revenues and Program.

(Added by Ordinance No. 176776; amended by 179000, effective December 22, 2004.)

- A.** As used in this Chapter, “lighting revenues” means that portion of Downtown Business District revenues collected under Section 6.06.200 A.7. as adjusted each year under Section 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.** Notwithstanding Section 6.06.010, lighting revenues shall be used only:
 - 1.** For the lighting program, 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 revenues to total District revenues;
or

3. If a qualified contractor determines that lighting revenues in a license year will exceed or have exceeded the costs and expenses of the lighting 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 in future license years, then for distribution by the qualified contractor to the payers of the lighting 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 Downtown Business District Periodic Sunset Review.

During 2011 and each tenth year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Downtown Business District property management license fee should be terminated. Prior to the first such hearing in 2011 and in each tenth year thereafter, the City shall mail notice of the hearing to the then current Downtown Business District licensees under this Chapter.

6.06.230 Downtown Business District Early Termination.

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 Downtown Business District property management license fee during that year, then the license fee for the Downtown Business District shall be terminated as of September 30 of that license fee year except that the fee shall 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.

6.06.250 Lloyd Business District.

The Lloyd Business 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 and 182925, effective July 17, 2009.)

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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 Business District for a license year shall 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. \$.30 (cents) per \$1,000 of assessed value of improvements for the 1999-2000 property tax assessment year;
 2. Plus \$1.60 per 290 square feet of improvements as of July 1, 1999;
 3. Plus \$.015 (cents) per square foot of land as of July 1, 1999.
- B.** In relation to business and residential property other than exempt residential property where physical changes to the property on or after July 1, 1999 have resulted in an increase or decrease in square footage of improvements, as compared to the square footage as of July 1, 1999, the fee established by this Chapter, for management of such property in the Lloyd Business District in a license year, shall 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 shall 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 \$.30 (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 \$1.60 per 290 additional square feet of improvements, resulting from the physical changes, as determined from the City Bureau of Development Services records of building permits issued authorizing or in association with the physical changes;
 - c. Plus the amount determined under Subsection A.3.

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2. Beginning with the license year following the first property tax assessment year in which the assessment roll reflects the physical changes, the fee shall be:
 - a. \$.30 (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 \$1.60 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.

C. In computing the fee as provided in Subsection A. or B.:

1. In relation to real property within the Lloyd Business 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 shall 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).

- D.** Notwithstanding the amount of the fee computed under Subsections A., B., and C, of this Section, in no case shall the fee payable by a licensee, in relation to all real property within the Lloyd Business District as to which the licensee is engaged in property management activities, exceed \$20,000.
- E.** The Lloyd Business District license requirements shall 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 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" shall 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 No. 178073, effective December 3, 2003.) 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 Business District shall be February 1 through January 31, with the first license fee year to commence February 1, 2001. Therefore, the dates set out in Sections 6.06.010 through 6.06.180, for purposes of the Lloyd Business District, shall be adjusted by 4 months to account for the 4 month difference in the commencement of the license fee year, except that the August 1 date set out in Section 6.06.090 shall be January 1.

6.06.280 Lloyd Business District Periodic Sunset Review.

(Replaced by Ordinance No. 178073, effective December 3, 2003.) During 2013 and each tenth year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Lloyd Business District property management license fee should

be terminated. Prior to the first such hearing in 2013 and in each tenth year thereafter, the City shall mail notice of the hearing to the then current Lloyd Business District licensees under this Chapter.

6.06.290 Lloyd Business District Early Termination.

(Added by Ordinance No. 178073, effective December 3, 2003.) 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 Business District property management license fee during that year, then the license fee for the Lloyd Business District shall be terminated as of January 31 of that license fee year.

