

## Chapter 6.05

### (Tourism Improvement District)

#### 6.05.010 Portland Tourism Improvement District

The Portland Tourism Improvement District includes all hotels, as defined in Section 6.05.020, with fifty or more rooms within the Portland City limits.

#### 6.05.020 Definitions

- A. "Bureau" means the Revenue Bureau of the City of Portland, along with its employees and agents;
- B. "Bureau Director" and "Director" mean the Director of the Revenue Bureau of the City of Portland, or his or her designee;
- C. "District" means the Portland Tourism Improvement District as described in this Chapter;
- D. "Notice" means a written document mailed by the Bureau by first class mail to the last known address of a hotel as provided to the Bureau in the latest application or return on file at the Bureau; or, if mailed to a hotel who is not a licensee, then to the last known address of the hotel as provided to the Portland Water Bureau or, if that Bureau has no address record, as provided to the Revenue Bureau in the latest business license tax return on file at the Bureau or, if none, then to such address as may be determined following reasonable investigation;
- E. "Hotel" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- F. "Engaged in hotel management activities" means:
1. Being financially responsible for a water service provided to a hotel;
  2. Being financially responsible for operation of a hotel business;
  3. Being financially primarily responsible for the indicia of management of a hotel, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
    - a. Being responsible for waste disposal service provided to a hotel;
    - b. Being responsible for providing fire insurance for a hotel;

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

**6.05.030 License Required**

Any person engaged in hotel management activities of any hotel with 50 or more rooms within the 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. Only one person need obtain a license for each hotel in the District. The term license as used in this Chapter, shall not be construed to mean a permit and no physical license will be issued. The license fees prescribed herein are for the privilege of engaging in the activity of hotel property management in the District, and the revenues collected will be used as provided herein. The payment of a license fee required hereunder and the acceptance of such fee 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.

**6.05.040 License Transfer.**

A. Except as provided in this Section, no license shall be transferred or assigned 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 hotel management activities requiring a license under this Chapter. Any transfer shall be reported to the Bureau in writing or on a form provided by the Bureau and shall be effective when the Bureau approves the transfer 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.

---

**6.05.050 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. Any person under license who wishes to continue engaging in hotel management after the expiration of a license term must file a license renewal at least 30 days before the license expires or such other time as is established by Bureau rule.

**6.05.060 Portland Tourism Improvement District License Rate**

The license assessment established by this Chapter for hotel management activities in the Portland Tourism Improvement District for a license year shall be calculated as follows:

A. Gross rent charged by the hotel;

- B. Minus rent received from any occupant for a stay of more than 30 successive calendar days (rent derived from stays by a person who pays for lodging on a monthly basis, irrespective of the number of days in such a month, shall also be subtracted);
- C. Minus rent received from stays by any person housed through an emergency shelter or disaster program where the rent is paid with government assistance funds; and
- D. Minus rent received from stays by any Federal Government employee traveling on official government business, who presents an official Government Exemption Certificate or official travel authorization.
- E. Multiplied by .02 (two percent).

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

- A. The assessment imposed by this Chapter is due and payable on the 15<sup>th</sup> day of the following month for the preceding three 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 the authority to classify and/or direct the hotels for determination of applicable collection periods. The initial return under this Chapter may be for less than three months preceding the due date based on the date of license issuance; thereafter returns shall be made for the applicable quarterly period, unless other reporting periods are required by the Bureau.
- B. On or before the 15<sup>th</sup> day of the month following each quarter of collection, a return for the preceding quarter assessment on a form prescribed by the Bureau shall be filed. The return shall be filed in such form as the Bureau may prescribe by every person liable for payment of the assessment.
- C. Returns shall show the amount of assessment owed for the quarter. The Bureau may require returns to show the total rentals upon which the assessment was calculated, gross receipts of the hotel 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 cause to be delivered the return, together with the remittance of the amount of assessment 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 day of delivery for determining delinquencies.
- E. For good cause shown, the Bureau may extend, the time for making any return or payment of the assessment for a period not to exceed one month. No further extension shall be granted, except by the Bureau Director. Any person granted an extension shall pay interest at the rate of 1.25 percent per month on the amount of assessment due without proration for a portion of a month. If an extension is granted and the assessment and interest due is not paid by the end

of the extension granted, then the interest shall be added to the assessment due for computation of penalties and additional interest designed elsewhere in this Chapter.

F. The Bureau, if deemed necessary in order to ensure payment or facilitate collection by the City of the amount of assessments in any individual case, may require returns and payment of the amount of assessments for other than quarterly periods.

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

A. To cover its cost of collecting the assessment, the Bureau may retain up to one percent of the revenues collected.

B. The Bureau shall forward net revenues collected, minus any amount withheld pursuant to Subsection 6.05.080 A., to the Management Corporation, which shall manage funds pursuant to Section 6.05.120.

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

A. The Director may adopt administrative rules, procedures, and forms to implement the provisions of this Chapter.

B. Adoption of Rules.

1. Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.

2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Bureau's office. Copies of all current rules shall be made available to the public upon request.

3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

#### **6.05.100 Late Penalties and Interest**

- A. **Original Delinquency.** Any Licensee that has not been granted an extension of time for remittance of the assessment due and which fails to remit any assessment imposed by this Chapter prior to the delinquency date shall pay a late penalty of 10 percent of the amount of the assessment due in addition to the amount of the assessment.
- B. **Continued Delinquency.** Any Licensee which has not been granted an extension of time for remittance of assessments due, and which 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 late penalty of 15 percent of the amount of the assessment due plus the amount of the 10 percent late penalty first imposed and any interest assessed.
- C. **Fraud.** If the City 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 assessment shall be added thereto in addition to the late penalties stated in Subsections A. and B. of this Section.
- D. **Interest.** In addition to the late penalties imposed, any Licensee that fails to remit any assessment 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 assessment due from the date on which the remittance first became delinquent until paid. Interest shall be compounded monthly.
- E. **Late Penalties and interest merged with assessment.** Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the assessment herein required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the assessment due. This amount becomes the new base for calculating new penalty and interest amounts.
- F. **Petition for Waiver.** Any Licensee that fails to remit the assessment herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the hotel may petition the City for waiver of the penalty or any portion thereof and the City may, if a good and sufficient reason is shown, waive and refund or credit to another period the penalty or any portion thereof.

#### **6.05.110 Civil Penalties**

- A. The Director may impose a civil penalty of up to \$500 for failure to file a return or pay any assessment within 60 days of the Due Date provided in Section 6.05.070.
- B. 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.

### **6.05.120 Revenues and Programs**

A. Revenues shall be used only for programs which promote overnight tourism and improve the lodging business environment. Programs shall be designed to benefit hotels paying the assessment. Programs may include:

1. Internet, radio, television, and print advertising;
2. Branding efforts;
3. Sales promotions;
4. Sponsorship of special events which attract out-of-town visitors; and
5. Other programs designed to increase overnight stays at hotels.

B. Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:

1. Prepare and submit to the City, and make available to lodging businesses, an annual report on expenditures and activities;
2. Manage funds in accordance with the provisions of this Chapter;
3. Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
4. Enter into an Agreement with the City relative to management of district funds.

C. The Portland Tourism Improvement District is intended to provide supplemental funding for marketing programs above and beyond those currently provided. TID funds shall supplement the existing funding of 1 percent of transient lodging tax dedicated to promotion, solicitation, procurement and service of convention business and tourism in the City.

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

During 2017 and each 5<sup>th</sup> year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the Portland Tourism Improvement District assessment should be terminated. Prior to the first such hearing in 2017 and each 5<sup>th</sup> year thereafter, the City shall mail notice of the hearing to the then current Portland Tourism Improvement District hotels under this Chapter.

### **6.05.140 Severability**

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