

ORDINANCE NO. 186985 As Amended

Amend Transient Lodgings Tax to add definitions and clarify duties for Operators of short-term rental locations (Ordinance; amend Code Chapter 6.04)

The City of Portland Ordains:

Section 1. Council finds:

1. The City has made amendments to the Additional Use & Development Regulations in Title 33 of the Portland City Code to allow certain short-term rentals in residentially-zoned areas.
2. The City is aware that even with these amendments, there are many short-term rentals that are still out of compliance with registration and/or permitting requirements. Many Short-Term Rental Hosts ("Hosts") have not registered with the Revenue Division and are not collecting and/or remitting the appropriate transient lodging or business license (income) taxes. Many Short-Term Rental Hosts have not registered with the Bureau of Development Services and have not received the required code compliance review or paid the required permit fee.
3. The City has determined that finding these non-compliant Hosts and properties is difficult as they are often rented or "booked" through online agents ("Booking Agents") that refuse to provide the short-term rental location address or contact information of the Host, or to remit transient lodging taxes on behalf of the Hosts. Booking Agents include but are not limited to online travel booking sites with booking models that often obscure exact property locations and Hosts, making tax and code enforcement difficult.
4. The City believes that compelling Booking Agents to provide Host information will raise compliance, permit fees and transient lodging tax revenue. It will also prevent non-compliant operators from obtaining an unfair advantage over compliant operators.
5. The City believes that, to the extent Booking Agents are booking rooms and accepting payments on behalf of their Hosts, they should also collect and remit the City transient lodging tax on behalf of their Hosts.
6. The Revenue Division anticipates there may be 1,000 or more new Hosts associated with one or more Booking Agents that do not collect room rent on behalf of the Host. One additional position will be required to administer these accounts after the Division receives location and contact information from Booking Agents. When Host information is received from Booking Agents, the Division may request budget appropriation for the new position.

NOW, THEREFORE, the Council directs:

a. Amend PCC **6.04.010 Definitions** as follows:

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

- A. “Accrual accounting”** means the eOperator enters the rent due from a transient on his/her records when the rent is earned, whether or not it is paid.
- B. “Bed and Breakfast Home”** means a home where a resident individual or family rents out guest bedrooms (no more than two) in their house, which is continually occupied as their primary residence.
- C. “Bed and Breakfast Inn”** means a home where a resident individual or family rents out guest bedrooms (between three and six) in their house, which is continually occupied as their primary residence.
- D. “Booking Agent”** means an Operator or any person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:
1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; and/or
  2. Online travel booking sites for Short-Term Rental transient lodging occupancy where advertisements of Short-Term Rental transient lodging occupancy rentals are displayed; and/or
  3. A hosting or other online site that provides a means through which an Operator, Host or agent may offer a Short-Term Rental unit for transient lodging occupancy.
- D. E. “Bureau”** means the Bureau of Licenses Revenue Division of the Bureau of Revenue and Financial Services of the City of Portland.
- E. F. “Bureau Director”** means the director of the Bureau of Licenses Revenue Division, or his/her designee.
- F. G. “Business License Appeals Board”** means a Board composed of five representatives appointed in the manner set forth in Section 7.02.295 of this Code.
- G. H. “Cash Accounting”** means the operator does not enter the rent due from a transient on his/her records until rent is paid.
- H. I. “City Council”** means the City Council of the City of Portland, Oregon.
- J. “Host”** means the owner or person who resides at the Short-Term Rental or has been designated by the owner or resident to manage the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or through the use of a Booking Agent.

- I. **K. "Hotel"** means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, house, duplex, condominium, multi-dwelling structure, trailer home, houseboat, public or private dormitory, fraternity, sorority, public or private club, and also means space or portion thereof so occupied, provided such occupancy is for less than a 30-day period.
- J. **L. "Occupancy"** means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.
- K. **M. "Operator"** means the person who is proprietor of the hotel in any capacity. Where the operator performs his/her functions through a managing agent of any type or character other than as employee, the managing agent shall also be deemed as 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. **N. "Person"** means any individual, firm, partnership, joint venture, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- M. **O. "Rent"** means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.
- N. **P. "Rent package plan"** means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this Chapter shall be the same charge made for rent of the identical room when it is not a part of a package plan.
- Q. **"Short-Term Rental"** means a house, multi-plex, apartment, condominium, houseboat, trailer or other residential dwelling where a person rents guest bedrooms for transient lodging occupancy. Generally, a Short-Term Rental is zoned as residential property.
- O. **R. "Tax"** means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he/she is required to report his/her collections.
- P. **S. "Transient"** means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered.

b. Amend PCC **6.04.040 Operator's Duties** as follows:

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

c. Amend PCC **6.04.170 Violations** as follows:

It is unlawful for any eOperator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or any other data required by the Bureau 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/or report, including any penalties and interest, within 60 days of the due date;
- B. Filing a false or fraudulent report;
- C. Failure to register a hotel or Short-Term Rental with the Bureau as described in Section 6.04.060; and
- D. Failure to maintain a separate account for the transient lodgings tax collected when required by the Bureau;-
- E. Failure to provide any data or other information requested by the Bureau, including but not limited to, the physical address of a transient lodging occupancy location within Portland and the related contact information;

- F. Failure to obtain an Accessory Short-Term Rental permit, provide the Type A Permit Number or Type B Conditional Use case file number in advertising or other listing services, or post this number in the rental unit; and
- G. Failure by a Booking Agent to prominently display the Accessory Short-Term Rental permit or case file number.

Passed by the Council: JAN 21 2015

Mayor Charlie Hales  
Prepared by: Terri Williams, Scott  
Karter  
Date Prepared: 12/2/2014

**Mary Hull Caballero**  
Auditor of the City of Portland  
By



Deputy

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2140

Agenda No.  
**ORDINANCE NO. 186985** **As Amended**  
 Title

Amend Transient Lodgings Tax to add definitions and clarify duties for operators for short-term rental locations (Ordinance; amend Code Chapter 6.04)

<p style="text-align: center;"><b>INTRODUCED BY</b>          Commissioner/Auditor:  <b>HALES</b></p>	<p>CLERK USE: DATE FILED <u>DEC 05 2014</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales <i>JP</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">LaVonne Griffin-Valade          Auditor of the City of Portland</p> <p>By: <i>[Signature]</i>          Deputy</p> <p><b>ACTION TAKEN:</b></p> <p><b>DEC 11 2014</b> <i>RESCHEDULED TO DEC 18 2014 3:30PM</i>  <i>TIME CERTAIN</i></p> <p><b>DEC 18 2014</b> <b>PASSED TO SECOND READING AS AMENDED</b>  <b>JAN 14 2015 10:45 AM TIME CERTAIN</b></p> <p><b>JAN 14 2015</b> <b>PASSED TO SECOND READING</b> <i>As Amended</i> <b>JAN 21 2015</b>  <b>9:30 A.M.</b></p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: Mayor's Office</p>	
<p>Prepared by: Terri Williams          Date Prepared: 11/30/2014</p>	
<p>Financial Impact &amp; Public Involvement Statement          Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document          If "Yes" requires City Policy paragraph stated in document.          Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b>          required for Code Ordinances <i>Toni</i></p> <p><b>City Attorney Approval:</b>          required for contract, code, easement, franchise, comp plan, charter <i>KAM</i></p>	
<p>Council Meeting Date <b>12/11/14</b></p>	

**AGENDA**

**TIME CERTAIN**   
 Start time: 3:45

**Total amount of time needed: 30 minutes**  
 (for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
 Total amount of time needed: \_\_\_\_\_  
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		✓
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	_____	