



City of Portland

Bureau of Development Services

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PERMANENT RULE

RELATING TO

**Accessory Short Term Rental (ASTR)
Inspections
Enforcement
PPD No. _____**

FOR INFORMATION CONTACT

BDS Property Compliance

(503-823-2633)

TITLE Accessory Short Term Rental (ASTR) Enforcement

AUTHORITY

Portland City Code (PCC) Section 3.30.010.C. of Title 3 (Administration) states that the Bureau of Development Services shall be responsible for the application and enforcement of the provisions of Planning and Zoning Regulations, Title 33. Section 3.30.040.A. provides authority for the Director of the Bureau of Development Services to adopt administrative rules, policies, and procedures for the enforcement of applicable code provisions and laws.

CITATION

3.30.010 Duties of the Bureau of Development Services.

The Bureau of Development Services shall be responsible for:

- C.** The application and enforcement of the provisions of the Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.

3.30.040

- Adopt administrative rules, policies, procedures and forms for enforcement
- Establish and impose enforcement fees and penalties for non-compliance
- Establish enforcement priorities
- Gain compliance as set forth in subsection 3.30.040.D.

33.207 Accessory Short Term Rentals

FINDINGS FOR ADOPTION

1. Portland City Code Section 3.30.045 delegates the authority to adopt and administer administrative rules appropriate to perform the duties of the Bureau of Development Services (BDS) set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.
2. BDS worked with staff to identify potential enforcement mechanisms as allowed by City Code Chapters 3.30 and 33.207 and develop this rule pertaining to the enforcement of the Accessory Short Term Rental requirements.
3. BDS notified the Development Review Advisory Committee (DRAC) of the rule and presented a summary at the October 20, 2016 DRAC meeting.
4. In accordance with Section 3.30.045, BDS published a notice of public hearing in *The Oregonian* (November 16, 18, and 19, 2016) and in *The Daily Journal of Commerce* (November 16, 18, and 21, 2016). BDS also posted notice of the hearing and made the draft amendments to the administrative rule available on the BDS website. BDS notified the Office of Neighborhood Involvement on November 15, 2016. BDS then held a public hearing to receive comments on the draft administrative rule on December 16, 2016, and held the record open until December 16, 2016. 189 written and 22 oral public comments were received on the proposed amendments. The effective date is more than 30 days after the last date of the required notices.

FINDINGS FOR AMENDMENTS

1. Staff identified clarifying amendments to make explicitly clear that the rule applies to both Type A and Type B Accessory Short-Term Rentals and conditions of approval thereof. Staff also identified a discrepancy with the amount of the first offense citation fine vs. the second and third offense citation fine in that the first-offense fine did not reference the BDS adopted fee schedule.
2. In accordance with Section 3.30.045, BDS published a notice of the proposed amendments in *The Oregonian* (August 30, 2019 and two additional consecutive publications) and in *The Daily Journal of Commerce* (August 30, 2019 and two additional consecutive publications). On August 28, 2019, BDS also posted a notice of proposed amendments and made the draft amendments to the administrative rule available on the BDS website. BDS notified the Office of Community and Civic Life on September 3, 2019. No public hearing was requested, and no public hearing was held. No written comments were received. The effective date is at least 30 days after the last date of the required notices.

CONCLUSION

As provided in Portland City Code Section 3.30.040, and following the procedures in Section 3.30.045, the Director of BDS hereby adopts the amended Administrative Rule.

AMENDED: *[Rebecca Esau]* October 3, 2019
Director

Adopted February 9, 2017
Amended October 3, 2019

Administrative Rule

Accessory Short Term Rental (ASTR) Enforcement

I. Purpose and Scope

The purpose and intent of this rule is to establish a citation-based enforcement process for violations of Portland City Code (PCC) 33.207, Accessory Short Term Rentals (ASTR). This rule applies to any property owner engaged in offering or allowing Type A or Type B accessory short-term rentals as defined in PCC 33.207.

II. ASTR Citation Process

General. The process and fines established in this rule shall be the process followed by the Bureau of Development Services (BDS) for citing and enforcing violations of 33.207 (Title 33, Zoning Code), imposing and collecting fines, and considering appeals.

Violations. When a violation of PCC 33.207 is confirmed, BDS may issue a citation to the responsible party. For the purposes of this rule, the responsible party is the property owner(s) as shown in the county assessment and taxation records for the property.

Citation service. A citation may be personally delivered to the responsible party, or may be served by Registered or Certified Mail to the responsible party. For purposes of this rule, service by registered or certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service.

Fines and corrections. The citation will state the section of PCC 33.207 violated, the fine imposed, and the corrective action required.

Corrections not made. If corrections are not made and the violation(s) continue, BDS may impose additional citations or pursue other enforcement remedies as authorized under 3.30.040, including assessment of Administrative Enforcement Fees and revocation of issued Accessory Short-Term permits.

Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review, see Section IV.

III. Citation Fines

The following fines are established for violations of PCC 33.207. These fines will be assessed as a result of an issued citation for violations of PCC 33.207, including but not limited to, operating a short term rental without the required permit, allowing more bedrooms to be used in the home or more guests to occupy the property than allowed by PCC 33.207, or violating conditions of approval of a conditional use review for a Type B ASTR.

- 1st Offense - As allowed by the BDS fee schedule adopted by the City Council
2nd Offense - As allowed by the BDS fee schedule adopted by the City Council
3rd Offense - As allowed by the BDS fee schedule adopted by the City Council

Additional violations after the third offense shall be set at the maximum amount per individual violation allowed by the fee scheduled adopted by the City Council. Multiple citations can be issued to the responsible party for continued violations of PCC 33.207 and each day of non-compliance may be considered a separate violation.

Fines must be paid to and received by the Bureau of Development Services – Enforcement Program within 15 calendar days of the date on the citation, or within 15 calendar days of the final administrative review of the Director or the published decision of a citation appealed to the Code Hearings Officer.

If the citation fine is not paid within 15 calendar days, as specified above, the fine(s) indicated on the citation will double and the unpaid citation amount will be assessed as a City lien against the property. An additional charge of 10% will be added to the lien amount.

IV. Administrative Review and Appeals

If the responsible party has received a written citation and the responsible party believes the citation has been issued in error, the responsible party may request that the citation be reviewed by the Director or designee. The responsible party must submit a written request for an Administrative Review within 15 calendar days of the date of the citation. An Administrative Review appeal fee, see current BDS Enforcement fee schedule, is due when the written request for an Administrative Review is requested. This fee will only be refunded if it is determined that all of the contested violations were cited in error. A written Administrative Review determination will be served on the responsible party by regular mail.

The responsible party may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.

In the event that an appeal is filed with the City Code Hearings Office, BDS may request an order for a deposition or discovery of documents from the responsible party and any operator as defined in PCC 33.207.020.B. in accordance with PCC 22.03.050 – 22.03.075. Additionally, BDS may request an order for a subpoena of a material witness or subpoenas to third parties for relevant documents related to the cited Accessory Short Term Rental violation in accordance with PCC 22.03.050 – 22.03.075. Discovery of documents and subpoenas may include, but are not limited to:

- All Federal and State tax filings for the tax years covering any violation(s)
- Bank account information encompassing the time period of any violation(s)
- Short-term rental activity relating to the subject property for all host organizations whose services, scheduling, fee collection, advertising, website listings and other similar services were used to assist the responsible party in any aspect of the accessory short term rental

- Motor vehicle information (vehicle registrations and driver license records from any state)
- United States Post Office address registration
- Voter registration
- Mortgage-related documents for the relevant property(ies)
- Phone records encompassing the time period of any violation(s)

The above records may also be requested directly from any other entity that maintains such records.

V. Reference Policies and Procedures

The following is a list of policies and procedures that are referenced in this rule. These references are provided for convenience only.

- PCC 3.30
- PCC 3.30.010.C.
- PCC 3.30.040
- PCC 3.30.045
- PCC 22.03.050 – 22.03.075
- PCC 22.10
- PCC 33.207
- PCC 33.207.020.B.

VI. Responsibility

The Bureau of Development Services is responsible for managing and implementing this rule.

VII. History

Permanent Rule Adopted: **February 9, 2017**

Permanent Rule Effective: **February 9, 2017**

Amended Permanent Rule Adopted and Effective: **October 3, 2019**