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CHAPTER 6.05 - TOURISM IMPROVEMENT DISTRICT

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

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6.05.010 Portland Tourism Improvement District.

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

6.05.020 Definitions.

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

- A. “Booking Agent” means any Person that provides a means through which a Host may offer a Short-Term Rental for transient lodging occupancy. This service is usually, though not necessarily, provided through an online platform and generally allows a Host to advertise the Short-Term Rental through a website provided by the Booking Agent’s hosting platform and provides a means for potential users to arrange transient lodging occupancy and payment, whether the transient pays rent directly to the Host or to the Booking Agent. Booking Agents include, but are not limited to:
 - 1. Online travel booking sites which are involved in the process of listing and booking Short-Term Rental transient lodging occupancies and handle any aspect of the resulting financial transaction; or

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

31-day period. All Hotels must comply with all local codes applicable to their location and use, including but not limited to zoning and building codes.

- G.** “Engaged in hotel management activities” means:
- 1.** Being financially responsible for a water service provided to a Hotel or Short-Term Rental; or
 - 2.** Being financially responsible for operation of a Hotel or Short-Term Rental business; or
 - 3.** Being responsible for initiating or maintaining Short-Term Rental listing information on an online travel booking site; or
 - 4.** Being financially responsible for the indicia of management of a Hotel or Short-Term Rental, in cases not covered by Subsection 1. or 2. Indicia of management of property include, in order of importance, but need not be limited to:
 - a.** Being responsible for waste disposal service provided to a Hotel or Short-Term Rental;
 - b.** Being responsible for providing fire insurance for a Hotel or Short-Term Rental;
 - c.** Being responsible for repair and maintenance of a Hotel or Short-Term Rental;
 - d.** Being responsible for operation of heating, ventilating, and air conditioning equipment that serves a Hotel or Short-Term Rental; and
 - e.** Being responsible for the operation and maintenance of fire prevention and suppression equipment that serves a Hotel or Short-Term Rental.
- H.** "City Council" means the City Council of the City of Portland, Oregon.
- I.** "Rent" means the full consideration charged to the Transient for the right to occupy a Room in a Hotel or Short-Term Rental for the occupancy of guest rooms only, valued in money, goods, gift cards, labor, credits, property or other consideration of valued, without any deduction. Rent is considered to be the total amount represented to the Transient as the consideration charged for the occupancy including any accommodation fees, customer fees, booking fees, service fees, off-platform booking fees, non-refundable fees, commissions or similar amounts paid to or withheld by a Person that facilitates the reservation of a Room.

- J. “Management Corporation” means an incorporated nonprofit organization that is responsible for the promotion of Portland on a year-round basis; manages tourism-related economic development plans, programs, and projects; and represents tourism-related businesses.
- K. “Person” means any individual, firm, partnership, joint venture, limited liability company, association, club, trust estate, corporation (for profit or not-for-profit), or any other entity or combination of entities capable of engaging in Hotel management activities within the District.
- L. “Licensee” means a person licensed to engage in hotel management activities within the District under this Chapter.
- M. “Room” means each portion of a Hotel or Short-Term Rental which may be rented or is intended to be rented to a separate transient lodger or lodging party, other than rooms containing no sleeping accommodations and intended to be used for purposes other than sleeping and living accommodations such as, meetings, recreation, education, business or other purposes. In rooms with multiple beds where each bed may be rented or is intended to be rented to a separate transient lodger, such as bunk and dormitory style rooms, each bed is counted as a room under this definition. This definition is included for purposes of determining if a hotel is included in the District.
- N. “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, bed & breakfast, accessory dwelling unit, tiny house, houseboat, trailer or other residential dwelling where a person rents a full house or guest bedroom(s) for transient lodging occupancy. A Short-Term Rental is generally, but not always, zoned residential and has a residential building occupancy. Certain residential building occupancy may allow Transient Lodging Occupancy by right or by permit.
- O. “Short-Term Rental Host” means the owner, agent or person who resides at a Short-Term Rental or has been designated by the owner, agent or resident of the Short-Term Rental and who rents out the Short-Term Rental for transient lodging occupancy either directly or by using a Booking Agent or Transient Lodging Intermediary.
- P. “Tourism and Hospitality Recovery Surcharge” means the one percent surcharge rate established to further enhance the promotion of overnight tourism and improve the hospitality business environment during the economic recovery period following the COVID-19 global pandemic.

6.05.030 License Registration Required.

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

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

6.05.040 License Transfer.

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

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

6.05.050 License Term.

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

6.05.060 Portland Tourism Improvement District License Rate.

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

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

- E. Multiplied by .02 (two percent) for stays occurring before July 1, 2021, which is the base rate, and by .03 (three percent) for stays occurring after June 30, 2021, which includes the two percent base rate and the one percent Tourism and Hospitality Recovery Surcharge rate.

6.05.070 Due Date; Returns and Payments.

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

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

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

6.05.080 Disposition of License Fees.

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

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

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

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

- B. Adoption of Rules.

1. Prior to the adoption of any rule by the Director pursuant to this Section, a public hearing shall be conducted. The Director shall give reasonable public notice of a proposal to adopt rules not less than 10, nor more than 30, days before the public hearing. The notice shall include the place, time, and purpose of the public hearing, a brief description of the proposed rules, and the location at which copies of the full text of the proposed rules may be obtained.
2. During the public hearing, the Director shall hear statements or receive written comment concerning the proposed rules. The Director shall either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received during the public hearing. If a substantial modification is made, additional public review shall be conducted, but no additional public notice shall be required if an announcement is made at the hearing of a future hearing for a date, time and place certain at which the modification will be discussed. Unless otherwise stated, all rules shall be effective upon adoption by the Director. All rules adopted by the Director shall be filed in the Division's office. Copies of all current rules shall be made available to the public upon request.
3. The Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of no longer than 180 days.

6.05.100 Penalties and Interest.

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

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

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

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

rules pertaining to such appeals. The procedures and rules of City Code Section 6.04.140 will apply to any such appeal.

6.05.110 Civil Penalties.

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

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

6.05.120 Revenues and Programs.

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

- A. Revenues shall be used only for programs which promote overnight tourism and improve the lodging and hospitality business environment. Programs shall be designed to benefit both Hotels and Short-Term Rental Hosts who use Booking Agents to advertise or accept reservations paying the assessment. Programs may include:
 - 1. Internet, radio, television, and print advertising;
 - 2. Branding efforts;
 - 3. Sales promotions;
 - 4. Sponsorship of special events which attract out-of-town visitors; and
 - 5. Other programs designed to increase overnight stays at Hotels or Short-Term Rentals.
- B. Revenues shall be forwarded to and managed by a comprehensive destination marketing organization operating in Portland, which shall be the Management Corporation. The Management Corporation shall:
 - 1. Prepare and submit to the City Council, and make available to lodging businesses, an annual report on expenditures and activities;
 - 2. Manage funds in accordance with the provisions of this Chapter;
 - 3. Not be considered a public entity for any purpose; nor shall its Board members be considered public officials for any purpose; and
 - 4. Enter into an Agreement with the City of Portland relative to management of district funds.

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

6.05.130 Portland Tourism Improvement District Periodic Sunset Review.

(Amended by Ordinance No. 187828, effective July 15, 2016.) During ~~2021-2026~~ and each ~~10th-5th~~ year thereafter, the City Council shall conduct a public hearing or hearings to determine whether the ~~Tourism and Hospitality Recovery surcharge Portland Tourism Improvement District~~ assessment should be terminated. Prior to ~~the first~~ each such hearing ~~in 2021 and each 10th year thereafter~~, the Division shall mail notice of the hearing, consistent with the provisions of Section 6.05.090 B.1, 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.