

ORDINANCE No.

Establish the Portland Tourism Improvement District to enhance promotion of Portland as a preferred destination for meetings, conventions and leisure travel.

(Ordinance; add Code Chapter 6.05)

The City of Portland ordains:

Section 1. The Council finds:

1. The travel industry is a major economic driver in the nation and the Portland region. Travel is among the largest traded sector employers in the United States and in Oregon. Visitors to the Portland region spent \$3.8-billion directly in the region in 2011, generating 29,200 jobs and \$153-million in state and local tax revenues.
2. Cities in competition with Portland are increasing their investment, often through Tourism Improvement Districts, in marketing and promoting their destinations. To remain competitive and not lose market share, Portland must increase the funding available to promote the city as a premiere travel destination.
3. A Tourism Improvement District (TID) provides a stable source of funding for destination marketing organizations to support sales, marketing and promotion efforts, with the ultimate goal of increasing occupancy and room rates for lodging businesses.
4. A Tourism Improvement District is governed by those who pay the assessment and benefit from it. A committee comprised of a majority of rate payers will be formed by the Management Corporation to approve the yearly program of work.
5. A 2% TID assessment keeps Portland's lodging industry competitive with other cities.
6. In order to reduce administrative burdens, and thus overhead costs for the City, the Revenue Bureau will use existing administrative mechanisms and procedures to collect the TID assessment.

NOW, THEREFORE, the Council directs:

- a. Code Chapter **6.05** is established as shown in Exhibit A to create a Portland Tourism Improvement District

Passed by the Council,
Dan Saltzman
PORTLAND
Commissioner of Public Affairs

LaVonne Griffin-Valade
AUDITOR OF THE CITY OF

By

Deputy

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 15th 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 15th 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 5th 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 5th 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.

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Matthew Grumm	2. Telephone No. 503-823-3027	3. Bureau/Office/Dept. Revenue
4a. To be filed (date): June 13 th , 2012	4b. Calendar (Check One) Regular Consent 4/5ths X <input type="checkbox"/> <input type="checkbox"/>	5. Date Submitted to Commissioner's office and FPD Budget Analyst: June 7, 2012
6a. Financial Impact Section: X Financial impact section completed		6b. Public Involvement Section: X Public involvement section completed

1) Legislation Title: Establish the Portland Tourism Improvement District to enhance promotion of Portland as a preferred destination for meetings, conventions and leisure travel. (Ordinance; add Code Chapter 6.05)

2) Purpose of the Proposed Legislation: To provide a stable source of funding for destination marketing organizations to support sales, marketing and promotion efforts, with the ultimate goal of increasing occupancy and room rates for lodging businesses.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |
| <input type="checkbox"/> Internal City Government Services | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

This legislation would bring in revenue of approximately \$6.6 million per year. This estimate is based on 2% of the approximately \$330 million in taxable rents reported for the 2011 tax year by hotels in Portland with 50 or more rooms.

5) Expense: What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the *level of confidence*.)

Expenses should not exceed 1% of the amount received. 1% of 6.6 million would be an annual expense of \$66,000.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

YES: Please proceed to Question #9.

NO: Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item? Increased hotel room night usage throughout the city of Portland along with additional spending in all ancillary hospitality businesses, retail, restaurants, taxis, etc. Advertising outside of market to influence travel decisions also increase value of Portland as a business relocation destination.

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

5 hotel rate payer outreach sessions held between March 5th, 2012 and March 16th, 2012. Sessions were held in 4 geographically diverse locations in the city, Jantzen Beach, Airport, East Side and Downtown. For hotels with 200 or more rooms, 86.9% by revenue attended a session. For hotels with rooms between 50 and 199, 46.1% by revenue attended a session. Additional outreach was made to the Asian American Hotel Owners Association (AAHOA). Mr. Jatin Patel, a member of that organization, will join the board which will oversee the expenditures of these funds.

c) How did public involvement shape the outcome of this Council item?

The original proposal was for a 10 year life of the district and included hotel's 20 rooms and over. Based on feedback from the hotel community and the AAHOA, the new district will need to be reviewed in 5 years and hotels with more than 50 rooms are the beginning point.

d) Who designed and implemented the public involvement related to this Council item? Travel Portland Board of Directors and Staff

e) Primary contact for more information on this public involvement process (name, title, phone, email): Jeff Miller, President, Travel Portland, 503-275-9797, jmiller@travelportland.com

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not. Hotels paying the fee will be invited to sessions as the marketing plan is created and twice yearly updates from Travel Portland on the programs, successes and challenges will be communicated. A section will be created on the Travel Portland website, www.travelportland.com, where all documents and minutes of meetings will be kept for public review.

[Redacted signature area]

BUREAU DIRECTOR (Typed name and signature)