

## **ORDINANCE No.**

Amend Business License Law Code related to the administration of the Residential Rental Registration Program and housekeeping changes (Ordinance; amend Code Chapter 7.02)

The City of Portland ordains:

Section 1. The Council finds:

1. In July 2018, City Council passed ordinance 189086, creating the Residential Rental Registration Program. The program required all owners of residential rental units in the City to register those units with the Revenue Division beginning in tax year 2018. There was no registration fee for tax year 2018.
2. In August 2019, City Council passed ordinance 189650, enacting a per unit registration fee, beginning in tax year 2019, as a part of the Residential Rental Registration Program. The program is administered, and the fee collected, through the Business License Tax platform.
3. To increase timely compliance and to enable efficient administration, the Residential Rental Registration Fee should be subject to late payment and late filing penalties and interest similar to the Business License Tax.
4. There has been some confusion about what a “Residential Rental Unit” is. Creating a definition of “Residential Rental Unit” will reduce taxpayer confusion and increase compliance.
5. After a review of past participation, the determination was made that including the donation to the Arts Impact Fund (formerly known as Work for Art) on the City Business Income Tax Return as a refund offset was not cost-effective. The Regional Arts and Culture Council (RACC), the administrator of the Arts Impact Fund, was consulted and is aligned with the decision to remove the refund offset from the tax return. In the future, the Revenue Division will prominently provide RACC donation information on the tax return, which is a more appropriate use of City and RACC resources.
6. This Ordinance also includes some housekeeping changes to Code Chapter 7.02 to remove outdated references and terms, provide clarity on net operating loss deductions, and clarify when the form for the Clean Energy Surcharge is due.

NOW, THEREFORE, The Council directs:

- a. City Code Section 7.02 is amended as set forth in the attached EXHIBIT A.

Passed by the Council:

Mayor Ted Wheeler

Prepared by: Matthew Thorup

Date Prepared: August 19, 2020

**Mary Hull Caballero**

Auditor of the City of Portland

By

Deputy

**Agenda No. ~~688~~ 731**  
**Item Type: Ordinance No. \_\_\_\_\_**  
**Council Meeting Date: September 9, 2020**

Title: Amend Business License Law Code related to the administration of the Residential Rental Registration Program and housekeeping changes (Ordinance; amend Code Chapter 7.02)

**AGENDA TYPE**

- Consent**  
 **Regular**  
 **Time Certain** Start Time

Item 1 of 1

Total amount of time needed for presentation, testimony and discussion (Regular and Time Certain Only): N/A (Consent)

**INTRODUCED BY: Mayor Ted Wheeler**

**COMMISSIONER / AUDITOR APPROVAL**

Mayor - Finance & Admin. - Wheeler Digitally signed by Mustafa Washington  
Date: 2020.09.01 12:27:13 -0700'  
 Position 1/ Utilities - Fritz  
 Position 2/ Works - Vacant  
 Position 3/ Affairs - Hardesty  
 Position 4/ Safety - Eudaly  
 City Auditor - Hull Caballero

**BUREAU APPROVALS**

Bureau: OMF/CAO  
 OMF/CAO: Tom Rinehart Digitally signed by Tom Rinehart  
Date: 2020.08.20 08:13:47 -0700'  
 Bureau Approval: Michelle Kirby Digitally signed by Michelle Kirby  
Date: 2020.08.19 17:28:58 -0700'

Prepared By: Matthew Thorup  
 Date Prepared: August 17, 2020

1) Is a completed Impact Statement attached?  Yes

2) Does the item amend the budget?  Yes  No  
 If yes, **Budget Office** Approval

3) Is the item a Code ordinance?  Yes  No  
 If yes, **Auditor Office** Approval DB

4) Is this item a contract (current or future), code, easement, franchise, comp plan or Charter?  Yes  No  
 If yes, **Attorney Office** Approval  
 Ken McGair Digitally signed by Ken McGair  
Date: 2020.06.27 11:34:56 -0700'

5a) Is item a Portland Policy Document or Administrative Rule?  
 Yes  No

5b) If yes, is the City Policy/Admin Rule directive in the ordinance or resolution?  
 Yes  No

**ACTION TAKEN:**

**September 9, 2020 Passed to Second Reading September 16, 2020 at 9:30 a.m.**

CLERK USE: DATE FILED 9/1/20

Mary Hull Caballero  
 Auditor of the City of Portland

By: Keelan McClymont Digitally signed by Keelan McClymont  
Date: 2020.09.01 17:18:23 -0700'  
 Deputy

**FOUR-FIFTHS AGENDA**

- |             |
|-------------|
| 1. Fritz    |
| 2. Vacant   |
| 3. Hardesty |
| 4. Eudaly   |
| Wheeler     |

**COMMISSIONERS VOTED AS FOLLOWS:**

	YEAS	NAYS
1. Fritz		
2. Vacant		
3. Hardesty		
4. Eudaly		
Wheeler		

Amend Code Chapter 7.02 as follows:

1. Amend Code Section 7.02.100 Definitions as follows:

**A. - S. unchanged**

**T.** “Person” includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, ~~joint venture (including tenants in common arrangements)~~, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

**U. – AA. unchanged**

**BB.** “Residential Rental Unit” means a “dwelling unit” a defined by ORS 90.100, that is rented or offered for rent for a period of more than 30 consecutive days.

**BBCC.** “Retail Gross Revenue” means Retail Sales excluding the deductions outlined in Subsection 7.02.500 F.3.

**CCDD.** “Retail Sale” means a sale to a consumer for use or consumption, and not for resale. Retail Sale also includes but is not limited to the sale of services, including but not limited to retail banking services.

**DDEE.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.

**EEFF.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.

**FFGG.** “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

2. Amend Code Section 7.02.110 Income Defined Subsection A. as follows:

**A.** Partnerships, S corporations, limited liability companies, limited liability partnerships, family limited partnerships, estates, and trusts ~~and joint ventures (including tenants in common arrangements)~~ are liable for the business license tax and not the individual partners, shareholders, members, beneficiaries, or owners. The income of these entities must include all incomes received by the entity, including ordinary income, interest and dividend incomes, income from sales of business assets and other incomes attributable to the entity. For income purposes, a limited liability company is deemed to be the tax entity that includes the income of the limited liability company in its federal tax return – if the limited liability company will be disregarded as a separate tax entity.

3. Amend Code Section 7.02.200 Administration Subsection A. as follows:

- A. The Division is responsible for administering the Business License Law. Authority granted to the Director may be delegated, in writing, to another employee within the ~~Bureau~~Division.

4. Repeal Code Section 7.02.350 License Tax Year Term.

5. Amend Code Section 7.02.500 Tax Rate Subsection F.1. as follows:

- 1. Filing Requirement. All businesses with total gross income of \$1 billion or more and Portland gross income of \$500,000 or more, as reported on the Combined Tax Return per Section 7.02.610, shall file a ~~schedule with form~~ that is due at the same time as their Combined Tax Return.

6. Amend Code Section 7.02.510 Registration Form and Tax Return Due Dates Subsection D. as follow:

- D. The ~~Bureau~~Division will prepare blank registration forms and tax returns and make them available at its office upon request. Failure to receive or secure a form does not relieve any person from the obligation to pay a business tax.

7. Amend Code Section 7.02.600 Income Determinations Subsection I.1. as follows:

- 1. When the operations of the taxfiler from doing business both within and without the City result in a net operating loss, such loss will be apportioned in the same manner as the net income under Section 7.02.610. ~~However, in no case may a~~ A net operating loss may not be carried forward from any license tax year during which the taxfiler conducted no business within the City or the taxfiler was otherwise exempt from payment of the business license tax unless specifically provided for by administrative rule or written policy.

8. Amend Code Section 7.02.830 as follows:

**7.02.830 Collection and Remittance of Donations to ~~“Work for Art,” a Program of the Regional Arts & Culture Council.~~**

(Amended by Ordinance No. 187339, effective October 16, 2015.) The Revenue Division is authorized to collect and remit donations from taxfilers to ~~“Work for Art,” a program of the Regional Arts & Culture Council.~~ If a donation is not included as a specific item on the tax return, the Division will prominently display information that will facilitate a direct donation.

~~A. Taxfilers may donate to “Work for Art” by either~~

- ~~1. paying a sum above what is owed for their City business taxes, or~~

- ~~2. — by designating that all or some of any refund due to them be instead donated to “Work for Art.”~~
- ~~B. — To indicate a desire to donate, the taxfiler must check the appropriate donation box on their tax return for the tax year in question. In addition, the taxfiler must indicate the amount that is to be donated.~~
- ~~C. — Once the tax return is filed with the Division, the taxfiler may not cancel the donation or request that it be instead credited to any other outstanding receivable owed to the Division.~~

9. Amend Code Section 7.02.890 as follows:

**7.02.890 Residential Rental Registration Program.**  
(Added by Ordinance No. 189086, effective July 25, 2018.)

- ~~A. For tax years beginning on or after January 1, 2018, all owners of residential rental property a Residential Rental Unit in the City are required to register the property unit and annually provide a schedule that includes the address of all owned residential rental units Residential Rental Units within the City. The Director may require additional data about the rental location unit by administrative rule. For purposes of this section, except where defined by administrative rule in accordance with Section 7.02.210, “residential rental unit” means any residential property rented or offered for rent for a period of more than 30 consecutive days. If a property or structure contains more than one residential living quarterdwelling unit, the term residential rental unit Residential Rental Unit refers to each separate living quarterdwelling unit.~~
- ~~B. In the first tax year of the Residential Rental Registration Program, no additional fee will be imposed in connection with the registration. In subsequent years, a fee may be enacted to partially or fully recover the administration costs of the program in addition to other services as the Council may direct. Any fee schedule would be created and amended by administrative rule in accordance with Section 7.02.210. Section 7.02.700, Penalties, shall not apply for failure to file rental registration data in the 2018 tax year. Beginning in tax year 2019 and beyond, the penalty and interest provisions of Sections 7.02.700 and 7.02.710 A. shall apply.~~
- ~~C. A person who rents a space for a manufactured dwelling, recreational vehicle, or moorage space for a floating home, but does not rent the actual manufactured dwelling, recreational vehicle, or floating home, is exempt from the registration requirements of this section.~~

## IMPACT STATEMENT

**Legislation title:** Amend Business License Law Code related to the administration of the Residential Rental Registration Program and housekeeping changes (Ordinance; amend Code Chapter 7.02)

**Contact name:** Thomas Lannom, Revenue Division Director

**Contact phone:** 3-5154

**Presenter name:** Thomas Lannom

### **Purpose of proposed legislation and background information:**

In July 2018, City Council passed ordinance 189086, creating the Residential Rental Registration Program. The program required all owners of residential rental units in the City to register those units with the Revenue Division beginning in tax year 2018. There was no registration fee for tax year 2018. In August 2019, City Council passed ordinance 189650, enacting a per unit registration fee, beginning in tax year 2019, as a part of the Residential Rental Registration Program.

To increase timely compliance and to enable efficient administration, the Residential Rental Registration Fee should be subject to late payment and late filing penalties and interest similar to the Business License Tax.

There has been some confusion about what a “Residential Rental Unit” is. Creating a definition of “Residential Rental Unit” will reduce taxpayer confusion in and increase compliance.

After a review of past participation, the determination was made that including the donation to the Arts Impact Fund (formerly known as Work for Art) on the City Business Income Tax Return as a refund offset was not cost-effective. In the future, the Revenue Division will prominently provide RACC donation information on the tax return, which is a more appropriate use of City and RACC resources.

### **Financial and budgetary impacts:**

The proposed code changes would not have a material impact on City revenue or expenses.

### **Community impacts and community involvement:**

The City heard from many taxpayers and tax preparers that additional clarity was needed in the Residential Rental Registration program. The addition of the definition of residential rental unit in PCC 7.02 should help provide this clarity.

The Regional Arts and Culture Council (RACC), the administrator of the Arts Impact Fund, was consulted and is aligned with the decision to remove the refund offset from the City tax return.

**100% Renewable Goal:**

The legislation has no direct impacts on this goal.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>



**September 9, 2020 AM Council Meeting**

**Public Testimony**

<b>Item</b>	<b>First</b>	<b>Last</b>	<b>Zip</b>
688	Edith	Gillis	97206