

Order 179-16/17

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 6 AND CHAPTER 14  
Re: Short Term Rentals**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 6, Article VI., Sections 6-150 to 6-157 of the Portland City Code is hereby amended as follows:*

**ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP RESIDENTIAL RENTAL  
UNIT REGISTRATION REQUIREMENTS**

**Sec. 6-150. Purpose.**

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of residential rental properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of such property, the regulation of renting of property within the City, and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, and to ensure that owners and tenants comply with chapters 6 and 10 of the City Code.

**Sec. 6-150.1. Definitions.**

The definitions in 6-106 apply to this Article. The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Island Short Term Rental shall mean a short term rental located on one of the following islands in the City of Portland: Peaks Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island, and/or Cliff Island.

Long Term Rental shall mean the letting of a rental unit in whole or in part for thirty (30) days or more.

Mainland Short Term Rental shall mean a short term rental located within the limits of the City of Portland, but not on Peaks Island, Long Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island and/or Cliff Island.

Multi-Unit shall mean a single, detached building in common ownership interest containing more than one (1) residential or commercial unit, as determined by the Director of the Permitting and Inspections Department.

Owner-Occupied shall mean a rental unit owned and occupied by the registrant as his or her primary residence.

Owner shall mean each individual person or entity including, without limitation, all partners, officers, or trustees of any real estate trust; all members or managers of a limited liability company; and all officers and directors of a corporation; that is the record owner of a building or property.

Primary Residence shall mean the dwelling in which a person resides as his or her legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.

Registrant shall mean the owner of a rental unit, or a tenant, with permission from the owner, seeking to register a rental unit.

Rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. Any portion of a Single-Family Home, Condominium, or Apartment that is rented or available to be rented to an individual or individuals who are not the owner or owners shall be considered a rental unit. Dwelling units and rooming units as defined in §6-106 are, without limitation, rental units. A Single-Family Home, Condominium, or Apartment that is occupied by the owner or owners, and of which no portion is rented or available for rent, is not a rental unit.

Short Term Rental is the letting of a rental unit, in whole or in part, for less than thirty (30) days.

Single Family Home shall mean a detached residential

dwelling or a single condominium unit containing one dwelling unit.

Tenant-Occupied shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.

**Sec. 6-151. Registration required.**

~~(a) For purposes of this Article, a rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. A Single-Family Home, Condominium, or Apartment that is occupied by the owner or owners, and of which no portion is rented or available for rent, is not a rental unit. Any portion of a Single-Family Home, Condominium, or Apartment that is rented to or available to be rented to an individual or individuals who are not the owner or owners is a rental unit. Dwelling units and rooming units as defined in §6-106 are, without limitation, rental units.~~

(a) Registration of Ownership.

1. Rental units must be registered in accordance with this Article by January 1st of each year. Registration must be renewed annually, on or before January 1st, including updating all changes in previously submitted registration information.
2. If a rental unit is rented as both a short term and long term rental, it must be separately registered for each type of rentals.
3. Each owner, manager, or person/entity otherwise responsible for the rental unit, such as a property manager, shall be obligated under this Article. Any new owner, manager, or responsible person/entity must register within thirty (30) days of purchase of the rental unit or transfer of management or responsibility.
4. A rental unit shall not be considered registered until all information and fees are provided to the satisfaction of the City's Permitting and Inspections Department or its designee.
5. As a condition of registration, all owners must allow

onsite inspections of their property including, without limitation, all rental units.

(b) Information/Documentation Required. Registration must be completed on forms supplied by the City's Permitting and Inspections Department or their designee and must provide, at a minimum, the following information:

1. The street address of the building;
2. The unit number of the rental unit;
3. The tax assessor's chart, block and lot of the property on which the building is located;
4. The owner of the property, including the owners' name, address, telephone number, and email address. If the owner is anything other than a natural person, the following information must also be included:
  - a. Each individual person that has an ownership interest in any entity that is the record owner. This includes, without limitation, all partners, officers, or trustees of any real estate trusts; any members or managers of a limited liability company; and all officers and directors of a corporation; and
  - b. The residential street address, e-mail address and home phone number of at least one (1) such individual person;
5. The manager of the property or the person or persons responsible for its regular maintenance or repair, as well as a name, address, telephone number, and email address for that person or entity.
6. The person designated as the agent of the owner or owners for the service of notices and civil process by the city, as well as their name, address, telephone number, and e-mail address. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or owners.

(c) Additional Information Required for Short Term Rentals. A short term rental shall not be considered registered unless and until the registrant has submitted a complete application together with all information required by this article, paid the fee required by Sec 6-153, and a registration number has been issued.

In addition to the information required in Section 6-152(5)(b), a Short Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee::

1. A short term rental application;
2. Whether the rental unit is owner-occupied, tenant-occupied, or non-owner occupied;
  - a. For Short Term Rental units that are owner-occupied, the registrant must provide a notarized primary residence affidavit, on forms provided by the City.
  - b. For Short Term Rental units that are tenant-occupied, the registrant must provide a notarized primary residence affidavit, a notarized statement of permission by his/her landlord, both on forms supplied by the City.
3. The address and tax assessor's chart, block, and lot number of all other short term rentals in the City in which the registrant has an ownership interest;

(d) Display of Short Term Rental Registration Number Required. Once registration is approved by the City, each short term rental shall be given a registration number, which must be displayed in the rental unit and in any and all advertisements for the rental unit.

(e) Upon request by the City, at any time, all registrants and/or agents of short term rental units must provide the City with their registration information, rental history, and upcoming reservation information. Failure of short term rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City within a forty-eight (48) hour period shall be considered a violation under this ordinance.

~~(b) Registration of ownership. The owner or owners of all buildings containing one (1) or more rental units within the city shall register their ownership interest, address, telephone number, and e-mail address, as well as the name, address and telephone number of the person or entity responsible for managing the property with a housing safety official designated by the city manager as provided in section 6-152 by January 1, 2016 or within thirty (30) days of purchase of the property and/or building, whichever occurs later.~~

~~(c) Fee for Registration. The owner or owners shall pay to a housing safety official designated by the city manager a fee of \$35 per rental unit at the time of registration. Failure to pay this fee by January 1, 2016 shall constitute a violation pursuant to section 6-153.~~

~~(d) Annual Renewal and Fee. The owner or owners shall renew their registration annually by updating the information provided in their initial registration and by payment to the City through a housing safety official designated by the City Manager of a fee of \$35 per rental unit. Failure to update information or pay the annual renewal fee by January 1 shall constitute a violation pursuant to section 6-153.~~

~~(e) Registration of management companies. Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration requirements of subsection (a) shall register with the building authority its management responsibility by January 1, 2016 or within thirty (30) days of assuming management responsibility. Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied. Failure to register management responsibility or update the information supplied regarding such management responsibility shall constitute a violation pursuant to section 6-153.~~

~~(f) Registration and Renewal Fee Discounts. In recognition that there are certain actions that owners of rental units may take that reduce the safety risk and decrease the financial burden upon the City, the following discounts to the registration fee and renewal fee are available:~~

- ~~(1) \$10 discount for each rental unit within a fully-sprinkled building as verified by a testing report, maintenance report or a maintenance~~

~~contract, which shall be provided at the time of registration and upon each renewal;~~

- ~~(2) \$7.50 discount for each rental unit within a building with a centrally monitored fire alarm as verified by Fire Department logs or an alarm contract, which shall be provided at the time of registration and upon each renewal;~~
- ~~(3) \$5.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Housing Quality Standard (HQS) inspection within the preceding year as verified by the HQS inspection report, which shall be provided at the time of registration and upon each renewal;~~
- ~~(4) \$10.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Uniform Physical Condition Standard (UPCS) inspection within the preceding year as verified by the UPCS inspection report, which shall be provided at the time of registration and upon each renewal;~~
- ~~(5) \$2.50 for a rental unit that is subject to a signed lease which prohibits smoking by tenants as verified by a copy of the current lease, which shall be provided at the time of registration and upon each renewal. The existence of and enforcement of such provision may also be verified through inspections or upon spot checks of the rental unit.~~

~~—The total amount of discounts from the annual registration or renewal fee as described above shall not exceed \$20.00, and the minimum annual fee for registration or renewal shall be \$15.00 per unit.~~

**6-152. Registration form; information. Registration Fees.**

~~A housing safety official designated by the city manager shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.~~

- ~~(a) The registration form for owners shall include, at a~~

~~minimum, the following:~~

- ~~1. The street address of the building;~~
- ~~2. The assessor's chart, block and lot of the property on which the building is located;~~
- ~~3. The names, addresses, telephone numbers, and e-mail addresses of all individual persons having any ownership interest in the property including, without limitation, all partners, all officers or trustees of any real estate trusts; and including the residential street address, e-mail address and home phone number of at least one (1) such individual person;~~
- ~~4. The name, address and telephone number of the manager of the property or the person or persons responsible for its regular maintenance or repair;~~
- ~~5. The name, address, and e-mail address of a person designated as the agent of the owner or owners for the service of notices and civil process by the city. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or owners designating that person in any litigation pertaining to the premises.~~

~~(b) The registration form for managers of property shall include, at a minimum, the following:~~

- ~~1. The name, address, e-mail address and local telephone number of the management company and of at least one (1) such individual, including the residential street address, e-mail address and home telephone number of that individual; and~~
- ~~2. A list of all buildings for which the person or firm is responsible, including the street address and chart, block and lot description of the property and the name of the owner of that building.~~

(a) Annual Registration Fee. Upon initial registration and by January 1st of each year, registrants shall pay the City

a registration fee for each rental unit, in the amounts set forth below. A rental unit shall not be considered registered unless and until this fee is paid in full.

(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay thirty five dollars (\$35.00) to the City by January 1st of each year.

(c) Short Term Rental Registration Fee Structure. The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any short term rental units operating in a single family home or owner occupied multi-family buildings and then fees will be attributed at the higher rate for any units located in non-owner occupied buildings. If an owner registers units in both owner occupied and non-owner occupied buildings then the owner occupied fees will be considered the first unit under the fee structure starting with the 1<sup>st</sup> unit fee as described in the chart below regardless of the order in which the units are registered.

<u>Owner Occupied Single Family Home, or Tenant Occupied</u>	<u>\$100</u>
<u>Multi-Unit Owner Occupied Building</u> <u>Island Short Term Rentals</u>	<u>1<sup>st</sup> Unit - \$100</u> <u>2<sup>nd</sup> Unit - \$250</u> <u>3<sup>rd</sup> Unit - \$500</u> <u>4<sup>th</sup> Unit - \$1,000</u> <u>5<sup>th</sup> Unit - \$2,000</u>
<u>Multi-Unit Non-Owner Occupied Building</u>	<u>1<sup>st</sup> Unit - \$200</u> <u>2<sup>nd</sup> Unit - \$500</u> <u>3<sup>rd</sup> Unit - \$1,000</u> <u>4<sup>th</sup> Unit - \$2,000</u> <u>5<sup>th</sup> Unit - \$4,000</u>

(d) Registration and Renewal Fee Discounts. The following discounts shall apply to the registration and renewal fees:

- (1) \$10 discount for each rental unit within a fully-sprinkled building as verified by a testing report, maintenance report or a maintenance

contract, which shall be provided at the time of registration and upon each registration renewal;

- (2) \$7.50 discount for each rental unit within a building with a centrally-monitored fire alarm as verified by Fire Department logs or an alarm contract, which shall be provided at the time of registration and upon each registration renewal;
- (3) \$5.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Housing Quality Standard (HQS) inspection within the preceding year as verified by the HQS inspection report, which shall be provided at the time of registration and upon each registration renewal;
- (4) \$10.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Uniform Physical Condition Standard (UPCS) inspection within the preceding year as verified by the UPCS inspection report, which shall be provided at the time of registration and upon each registration renewal;
- (5) \$2.50 for a rental unit that is subject to a signed lease which prohibits smoking by tenants as verified by a copy of the current lease, which shall be provided at the time of registration and upon each registration renewal. The existence of and enforcement of this provision may be verified through an inspections of each rental unit.

The total amount of discounts from the annual registration or renewal fee as described above shall not exceed \$20.00, and the minimum annual fee for registration or renewal shall be \$15.00 per unit.

**Sec. 6-153. ~~Violations.~~ Limitations on Short Term Rentals.**

- ~~(a) Any person business entity or other organization failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration shall be in violation of this Article for which a fine of \$100.00 per day each day the violation continues shall be~~

assessed.

~~(b) Any person providing false information with respect to registration shall be in violation of this article for which a fine of \$1,000.00 shall be assessed.~~

~~(c) It shall be a violation of this article for which a fine of \$100.00 per day each day the violation continues shall be assessed for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.~~

~~(d) No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article.~~

(a) *Occupancy Limit.* Overnight short term rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom plus no more than two (2) additional guests.

(b) *Limitation on Total Number of Short Term Rentals.* No more than 300 non-owner occupied mainland short term rental units shall be registered in any one calendar year.

(c) *Limitations on number of Short Term Rentals an Individual or Entity May Register.* An individual or entity may only register up to five (5) short term rentals in the City, including the Islands, in any one (1) calendar year. For purposes of this section, short term rentals registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(d) No individual or entity may register a short term rental in any single family home unless it is owner-occupied; tenant-occupied with permission of the owner; or located on an Island.

(e) The number of short term rental units that may be operated in a multi-unit building are as follows:

<u>Total # of Units in a Building</u>	<u># of Short Term Rental Units Allowed in a Building</u>	
	<u>Owner Occupied</u>	<u>Non-Owner Occupied</u>
<u>2</u>	<u>2</u>	<u>1</u>
<u>3</u>	<u>3</u>	<u>2</u>
<u>4</u>	<u>4</u>	<u>2</u>
<u>5</u>	<u>5</u>	<u>2</u>
<u>6-9</u>	<u>5</u>	<u>4</u>
<u>10+</u>	<u>5</u>	<u>5</u>

Tenant-occupied units, where the tenant is the registrant, shall not be counted towards these limits.

**Sec. 6-154. ~~Reserved.~~ Allocation of Short Term Rentals.**

The limitations on the allocation of short term rental units identified in section 6-154(b) shall be allocated each year on a first come, first registered basis. Once the total number of units identified in section 6-154(b) has been reached a waitlist will be formed to help gauge market demand. The City Manager or his/her designee, may institute a lottery process at his/her discretion.

**Sec. 6-155. ~~Reserved.~~ Violations.**

Specific violations of this article, subject to the provisions of § 6-1, include, but are not limited to:

- (a) Any person, business entity, or other organization failing to timely register a rental unit, including providing all required information and paying the required registration fee.
- (b) Any person, business entity, or other organization providing false information with respect to registration. Notwithstanding the provisions of § 6-1, the penalty for such violation shall be \$1,000.00.
- (c) Any person, business entity, or other organization renting any rental unit that is not registered under this article, or to permit the occupancy of such premises without registration.
- (d) Failure of short term rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City pursuant to 6-152(e) within a forty-eight (48) hour period.

(e) Any person business entity or other organization failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration shall be in violation of this Article for which a fine of \$100.00 per day each day the violation continues shall be assessed.

(f) Any person providing false information with respect to registration shall be in violation of this article for which a fine of \$1,000.00 shall be assessed.

(g) It shall be a violation of this article for which a fine of \$100.00 per day each day the violation continues shall be assessed for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.

(d) No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article.

**Sec. 6-156. ~~Reserved.~~ Enforcement.**

(a) The building authority as defined in section 6-1 or his/her designee is authorized to institute, or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(b) No certificate of occupancy shall be issued for property that is subject to the registration requirements of this article, but is not registered in accordance with this article.

(c) Any short term rental at a property that is designated by the City as a disorderly house and fails to meet the requirements of section 6-202, shall, at the discretion of the City Manager or this/her designee, have its registration revoked and be ineligible for registration for a period of twelve (12) months. Any registration after revocation shall be considered a new registration and not a renewal.

(d) Fines may be attributed to Property Management firms

found operating short term rental units in violation of this article. These fines may be in addition to fines levied against owners of property.

**Sec. 6-157. ~~Reserved.~~ Revenue Allocation.**

Notwithstanding §6-1(b), all revenue generated from short term rental registration fees and penalties shall be used to first fund short term rental related administrative costs. Any remaining revenue shall be deposited in the Housing Trust Fund, as defined in Sec. §14-489.

2. *That Chapter 14, Sections 14-47 of the Portland City Code is hereby amended as follows:*

**Sec. 14-47. Definitions.**

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

Accessory uses: Uses which are customarily incidental and subordinate to the location, function and operation of permitted uses.

...

Drive-through features: Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes. Occupancy of dwellings for periods of less than thirty (30) days are subject to the requirements of Portland City Code Chapter 6, Article VI.

Dwelling, one-family: A detached building used exclusively for occupancy by one (1) family.

...

Use: The purpose for which land or structures thereon is

designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased. The use of a property is not altered solely as the result of the property being rented, leased, or let, on a transient or long-term basis, by an individual or entity other than the owner, for purposes of engaging in the same use.

Utility substation: Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.