

Order 99-18/19

Motion to amend to add in Sec. 6-150 Purpose, in the second sentence after the word, "units", "may": Passage 8-1 (Strimling).

Motion to amend to change in the Sec. 6-153(f) chart titled Owner-occupied, 2 to 1, 3 to 2, 4 to 3, 5 to 4, leaving the two fives as is: Passage 7-2 (Strimling, Costa).

Motion to amend to change in Sec. 6-153 B. "300" to "400": Passage 5-4 (Cook, Ali, Batson, Strimling).

Motion to amend to add in Sec. 6-151,(c) subsection 5 after the words, "short term basis," "and the number of units that were rented long term": Passage 9-0.

Motion to amend to keep original language in Sec. 6-153 (C) re: five units: Passage 5-4 (Ali, Cook, Batson, Strimling).

Motion to amend to strike out Sec. 6-153 (d): Passage 5-4 (Cook, Ali, Ray, Strimling).

Motion to amend to add in Sec. 6-154 (c), "No registration is transferable or assignable": Passage 9-0.

Motion to amend to strike out in Sec. 6-152(c) the second sentence and add in the first sentence "and tenants"[may rent multiple rooms in]: Passage 6-3 (Ali, Cook, Strimling).

Motion to amend Sec. 6-152 (c) by striking out "Tenants may not register more than one short term rental unit" and to add "and tenants" after "owners" and to add "or tenant occupied" after the words "owner occupied" in the first sentence. Passage 6-3 (Ali, Cook, Strimling).

Motion to amend Sec. 6-154 (b) after "notwithstanding the limitations of Sec 6-153" by striking "(b) and (c)"and to strike subsection "(b) 1." beginning with "however": Passage 8-1 (Ali).

Passage as amended: 9-0 on 11/19/2018

Effective 12/19/2018

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE CHAPTER 6
RE: SHORT TERM RENTAL REGISTRATION AND REGULATION

**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., of the Portland City Code is hereby amended to read as follows:

ARTICLE VI. 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 long term 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. Non-owner occupied short term rental units may remove housing units from the long term rental market and may contribute to the increase in the cost of rental housing in the City.

This article is intended to require the disclosure of the ownership of such property, and to regulate the 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, to ensure that housing units remain available for rent to those who reside or seek to reside within the City, to ensure that residential areas are not unduly impacted by the operation of short term rentals, 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. Accessory dwelling units as defined in Chapter 14 of this Code, are not considered owner-occupied units for purposes of short term

| rental registration and regulation.

| *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.

| ~~*Short Term Rental Property Manager* shall mean the manager of the Short Term Rental Unit or the person or persons responsible for its regular maintenance or repair.~~

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) *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 rental.
3. Each owner, manager, ~~and/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 **apply to register within thirty (30) days of purchase of the rental unit or transfer of management or responsibility. New owners or tenants applying to register an existing short term rental unit are considered new applicants and shall be subject to all limitations and regulations in effect at the time of the application.**
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. The name of ~~E~~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; ~~and-~~
 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. 6-152, and a registration number has been issued.

In addition to the information required in Section 6-151(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~~ owner must provide a

notarized primary residence affidavit, on forms provided by the City. The owner must also produce for review one of the following demonstrating residency at the owner-occupied unit:

i. Valid driver's license or other state-issued identification;

II. Valid motor vehicle registration;

iii. Proof of homestead exemption; or

iv. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.

b. For Short Term Rental units that are tenant-occupied, the ~~registrant~~ tenant must provide a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant-occupied unit:

i. Valid driver's license or other state-issued identification;

ii. Valid motor vehicle registration; or

iii. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.

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;

4. For short term rental units that are within a condominium or homeowner's association, an attestation that use of the unit as a short term rental is allowed under the relevant documents; and

5. If the application is for renewal, the number of nights the unit was rented on a short-term basis and the number of nights the unit was rented on a long-term basis in the previous reporting year. For

purposes of reporting this information, November 1 through October 31 is the reporting period for a renewal of January 1.

(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.

Sec. 6-152. Registration Fees.

(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 1st unit fee as described in the chart below regardless of the order in which the units are registered.~~ owner occupied, tenant occupied, and/or island rentals first, and then fees will be attributed at the higher rate for any non-owner occupied mainland units.

Owners and tenants may register more than one owner occupied or tenant occupied unit (bedrooms, separate spaces, etc.) within their primary residence. ~~Tenants may not register more than one short term rental unit.~~

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

(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 per unit, ~~and the minimum annual fee for registration or renewal shall be \$15.00 per unit.~~

Sec. 6-153. ~~Violations~~Limitations on Short Term Rental Units.

(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 ~~300-400~~ non-owner occupied mainland short term rental units shall be registered in any one calendar year.

A mainland short term rental unit in an owner-occupied multi-unit, where the unit is not the primary residence of the owner, shall be counted as a non-owner occupied unit.

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

~~Limitations on number of Short Term Rentals for which an Individual or Entity may be the Short Term Rental Property Manager. No individual or entity may be the Short Term Rental Property Manager for more than five (5) mainland short term rental units in the City.~~

~~(b)~~(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.

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

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

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

(2) Owner-occupied units shall be counted towards these limits.

~~(g)~~f) Notwithstanding the requirements of subsections (c) and ~~(f)~~e), owners may register up to five (5) owner-occupied units (bedrooms, separate spaces, etc.) within their primary residence.

Sec. 6-154. Allocation of Short Term Rentals.

(a) ~~— The limitations on the allocation of Non-owner occupied mainland short term rental units, identified in which are limited by section 6-153(b), shall be allocated each year on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand. The City Manager or his or her designee, may institute a lottery process at his or her discretion.~~

(b) Notwithstanding the limitations in section 6-153~~(b)~~ and ~~(c)~~, current registrations of short term rentals may be renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year.

1. However, if the number of registered non-owner

~~occupied mainland units exceeds the limitations in section 6-153(b), then no new non-owner occupied mainland units shall be registered until the number of units falls below that limitation. The City Manager or his or her designee may implement staggered application deadlines for new applications, as necessary to implement this requirement.~~

~~2.~~ Failure to renew by January 1 shall result in the forfeiture of the right to renew the registration, and any subsequent application shall be treated as a new application for registration.

~~32.~~ The renewal date for 2019 only shall be February 1, 2019.

~~(c) No registration under this Article shall be transferrable or assignable.~~

Sec. 6-155. Violations.

Specific violations of this article, subject to the provisions of section 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 failing to timely file any required update to the registration;

(c) Any person, business entity, or other organization failing to acquire and/or display the required short term rental registration number;

~~(e)~~(d) 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;

~~(d)~~(e) Any person, business entity, or other organization renting any rental unit that is not registered under this article, or to permitting the occupancy of such premises without registration;

~~(e)~~(f) 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;

~~(f) 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;~~

~~(g) 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;~~

Sec. 6-156. Enforcement.

(a) The building authority as defined in section 6-1 or his or 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 remedy the disorderly house as required by section 6-202, shall, at the discretion of the City Manager or his or 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. Upon the second designation of the short term rental property as a disorderly house, the City shall, at the discretion of the City Manager or his or her designee, prohibit the registered owner from operating the property as a short term rental or post the property against occupancy pursuant to section 6-201.

(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.

(e) Violations of the provisions of this article shall be grounds to deny an application or renewal application for a short term rental registration.

Sec. 6-157. Revenue Allocation.

Notwithstanding section 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 Section 14-489.