



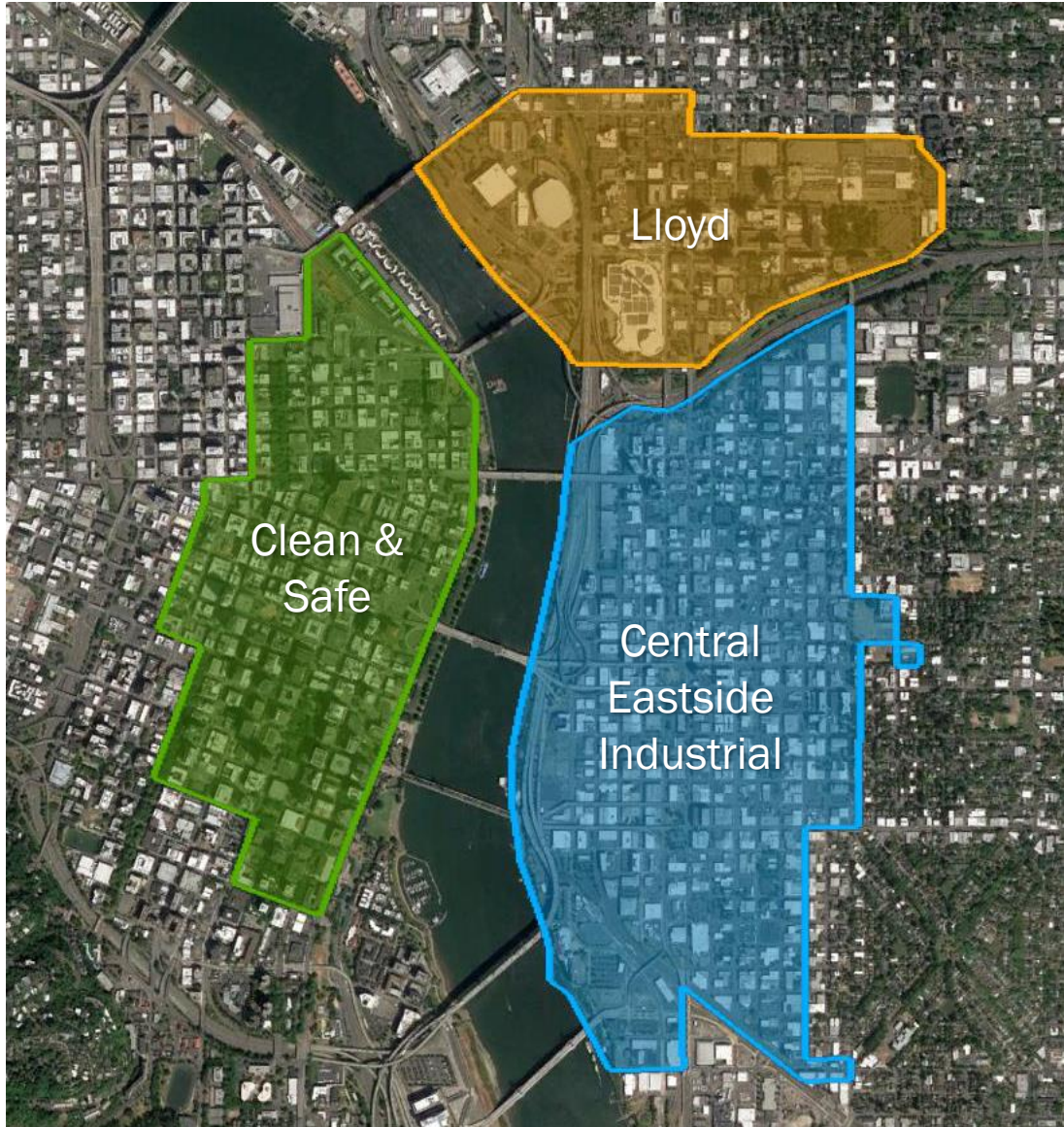
Enhanced Service Districts

City Code 6.06

General Overview

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Last Updated: December 14, 2021

Overview

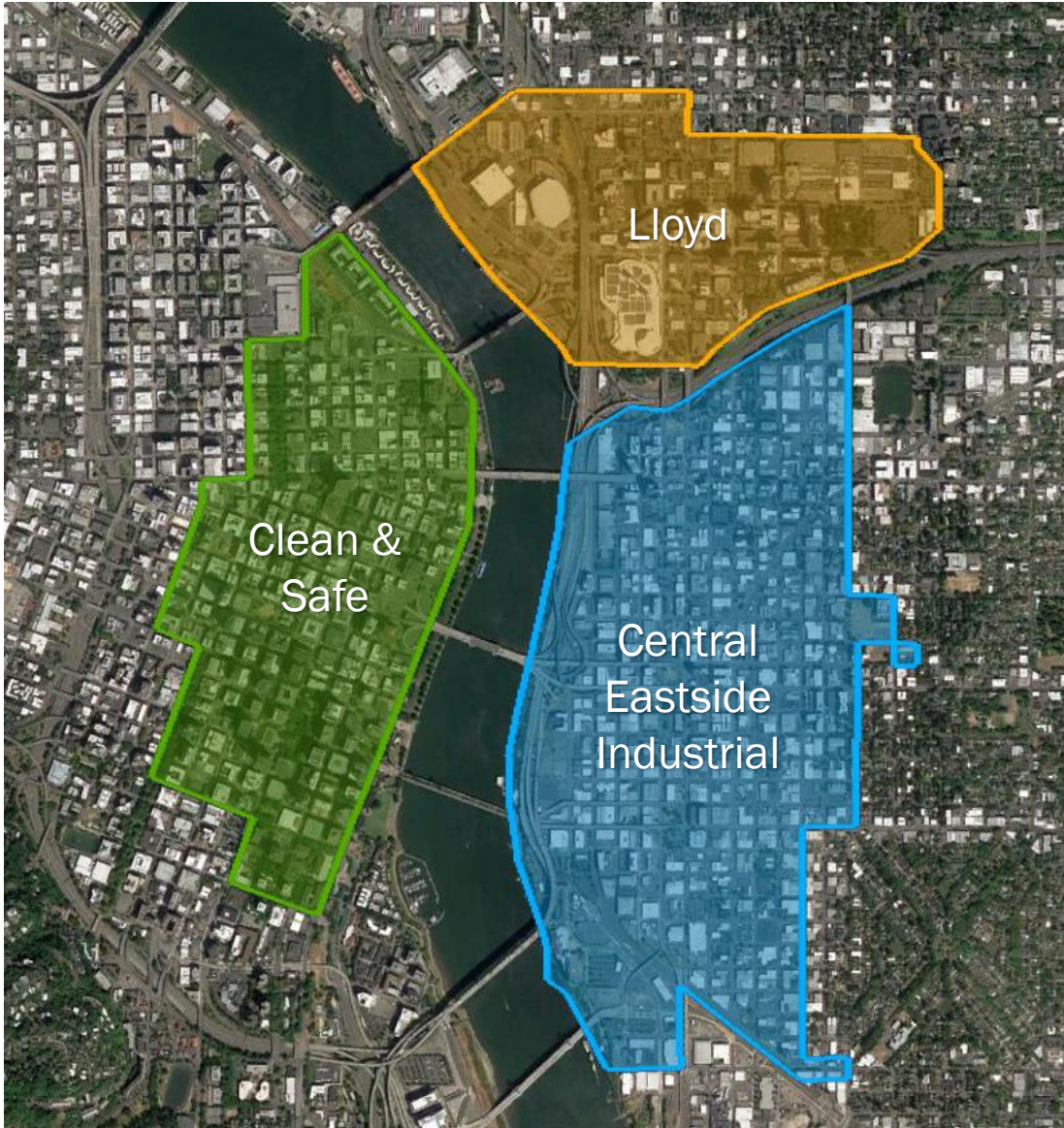


- Funds enhanced services beyond City basic services.
- Governed by [City Code Chapter 6.06](#).
- Established by vote of property owners with City approval.
- Property managers pay a license fee which is collected by the City.
- The City distributes the fee to a nonprofit created by each district specifically to provide services within the district.
- Currently all the nonprofits contract with other groups for management services.
- The City oversees enhanced service programs to ensure they align with City goals and standards.

Current enhanced service districts:

- Central Eastside Industrial District
- Clean & Safe District
- Lloyd District

District License Fee Requirements



- Any person or entity engaged in property management activities within a district must annually purchase a license to do so.
- The calculation of the license fee varies by district.
- The inclusion of different types of business and residential properties varies by district.
- The fees are used for enhanced services beyond basic City services provided through a qualified contractor.

Services the revenues collected can be used to provide:

- Cleaning
- Security
- Crime prevention
- Business development
- Transportation
- Public policy
- Housing
- Marketing & Communication
- Any service that benefits the properties in the district

Licensing Fee Versus Tax

From a legal standpoint, the City is not directly taxing persons or entities owning property but is rather collecting a fee by requiring any person or entity engaged in property management activities within each district to purchase a license to carry out such activities.

Relevant Case Law

[Roseburg School District v. Roseburg 316 OR 374 \(1993\)](#)

Affirmed that fees for services are not taxes if they are not a direct consequence of owning property.

[City of Portland v. Atwood 13 OTR 136 \(1994\)](#)

Affirmed the property license fee was not a tax as defined by the Oregon Constitution Article XI.

[Knapp v. City of Jacksonville 342 OR 268 \(2007\)](#)

Re-affirmed that fees for services are not taxes if they are not a direct consequence of owning property.

[Old City Lofts v. City of Portland 20 OTR 58 \(2009\)](#)

Re-affirmed property license fee is not a tax and affirmed fee can be applied to condominium property managers.

Definition of Engaged in Property Management Activities

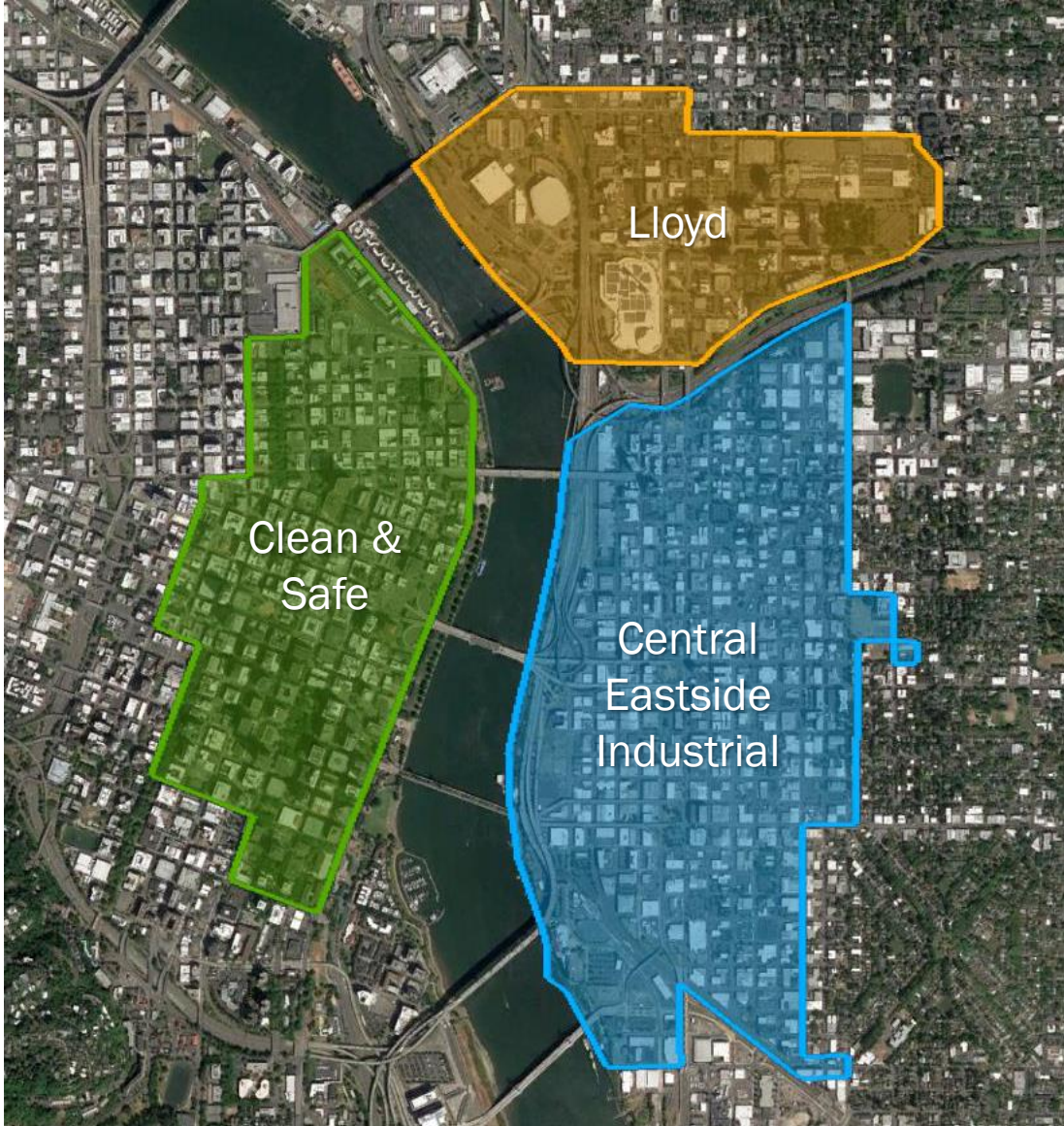
- Being financially responsible for water service to a building or lot.
- Being financially responsible for operation of a business or a residential use that exclusively occupies a building or lot.
- Being financially primarily responsible for the indicia of management of property, such as being responsible for:
 1. Water service provided to common areas of a building.
 2. Waste disposal service provided to a building.
 3. Providing fire insurance for a building.
 4. Repair and maintenance of a building.
 5. Operation of heating, ventilating, and air conditioning equipment that serves a building.
 6. Operation and maintenance of fire prevention and suppression equipment that services a building.

Notwithstanding the above, being an owner of property whose activities in relationship to the property consists only of activities that the owner is mandated by law to carry out will not be viewed as engaged in property management activities.

Definition of Properties Exempt from Paying Fee

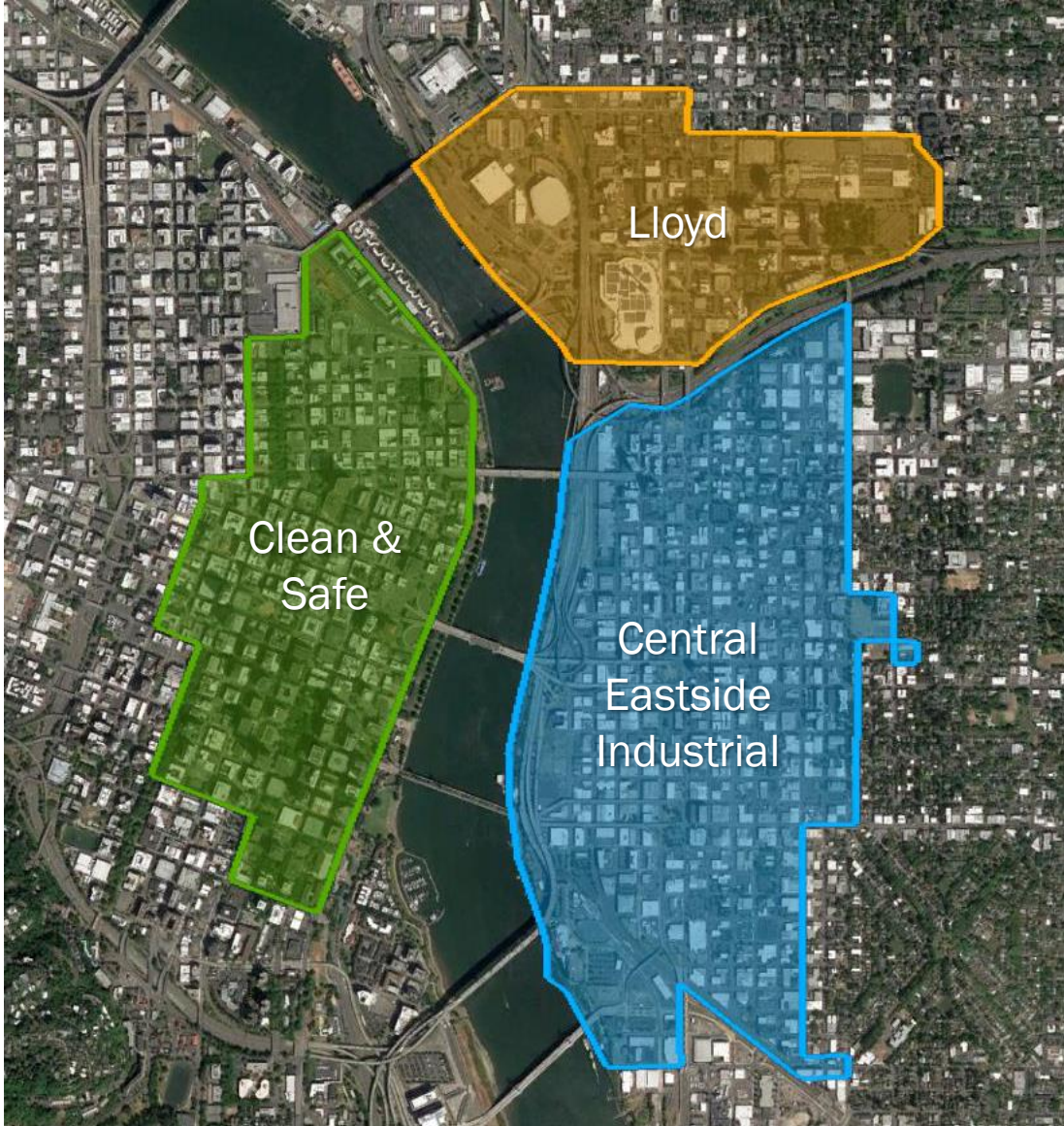
- Mass shelters as defined in City Code [Chapter 33.910](#).
- Property owned or being purchased by religious organizations including:
 1. Houses of public worship and other buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment, and recreational purposes by religious organizations.
 2. Parking lots used for parking or any other use if that parking or other use is permitted without charge for no fewer than 355 days during the license year.
 3. Does not include any part of property which is kept or used as a store or shop or for any purpose other than those stated above.
- Persons who the city is prohibited from licensing or taxing under the Constitution or laws of the United States, constitution or laws of the State of Oregon, or the Charter of the City.

District License Fee Management



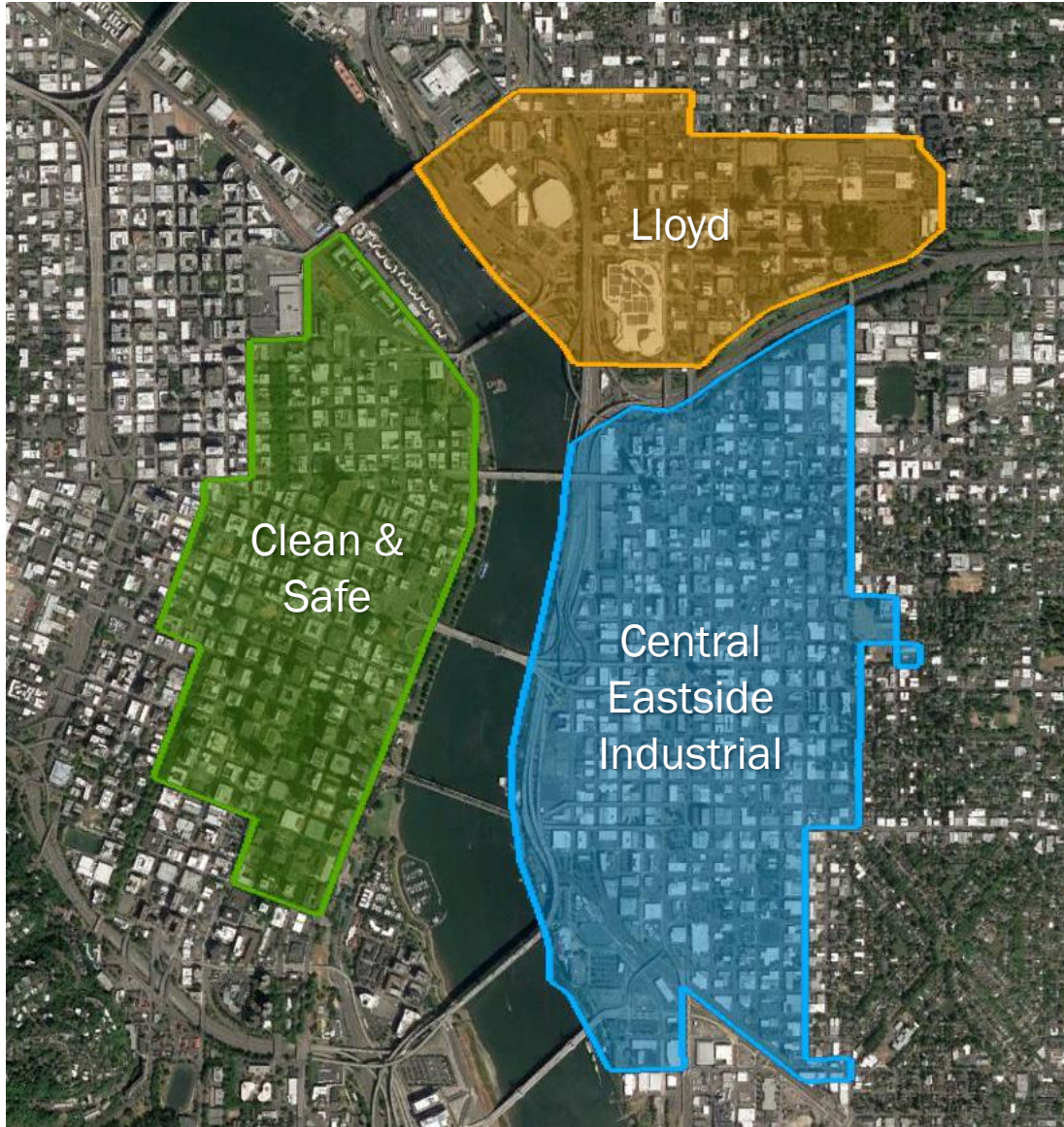
- Management of the districts is currently overseen by the Director of the Revenue Division.
- The Manager may adopt rules, procedures, and forms to implement the provisions of City Code 6.06.
- To adopt a new rule, the Manager must give public notice 10 to 30 days prior to holding a public hearing.
- The public hearing will include statements and written comment. The rule will then be adopted, modified, or rejected based upon the input.
- If the modifications are substantial, another public hearing must be held.
- The Manager may adopt an interim rule immediately if its in the public interest, but it will only be effective for up to 180 days.

District License Details



- Persons or entities engaged in property management activities within the district must purchase a license to do so annually.
- The license is transferable mid-term, but only if to a person or entity who continues the acts that constitute property management activities. Such transfers must be reported to the Revenue Division.
- Licenses are dated as of the first day of the month in which the license is issued or was required to have been obtained. The license expires one year from that date.
- No physical license is actually issued.

Collection of Fee

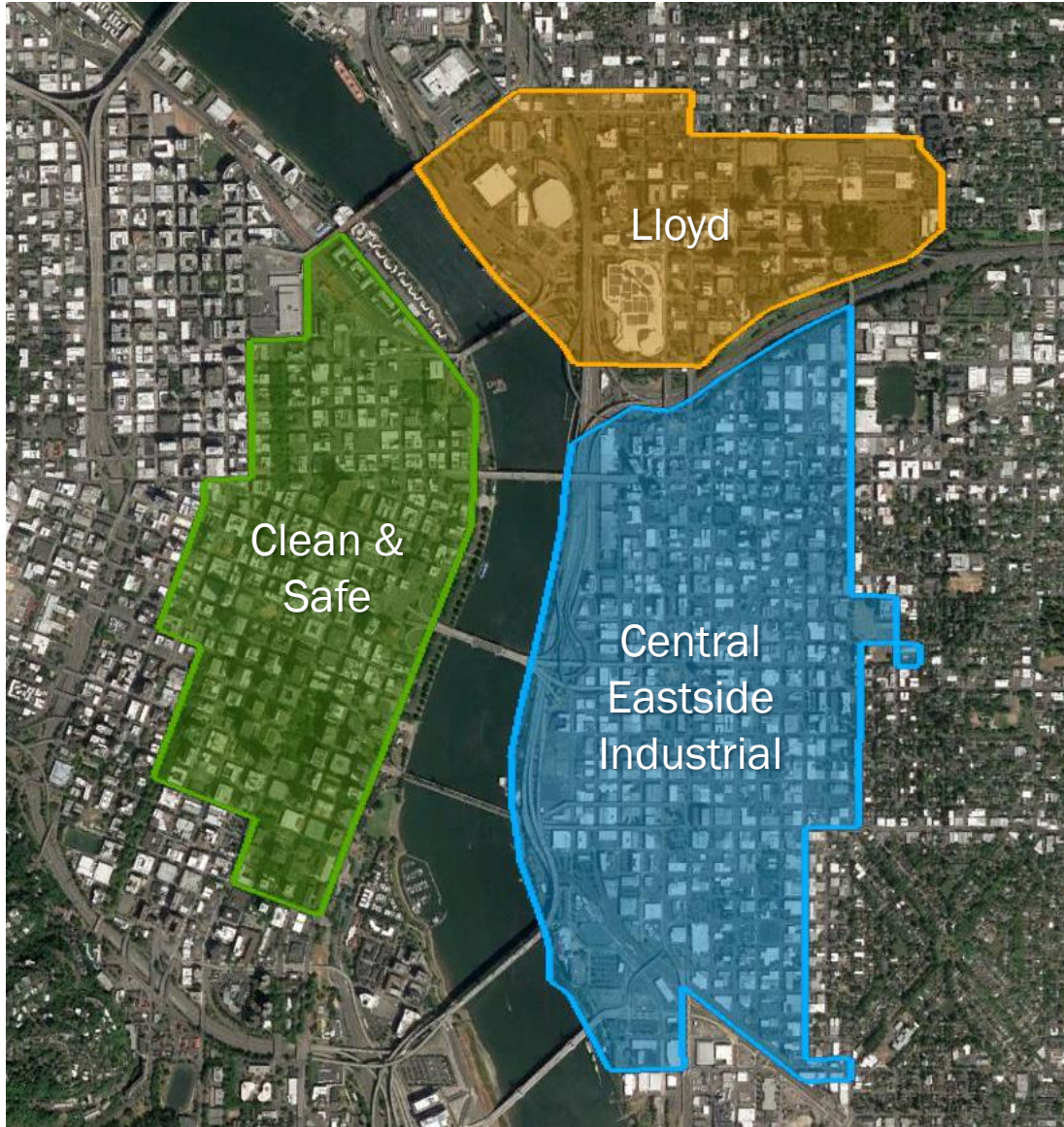


- Prior to each license year, the Revenue Division determines a list of those engaged in property management in the district.
- Each person is then mailed a license fee notice including the amount payable, how it was calculated, and details related to defining property management activities, any exemptions from paying the fee, and the appeals process.
- In cases of new construction or significant improvements, the fee will be payable beginning the date the City issues authorization to occupy the improvements, with the fee adjusted accordingly for partial years.
- The fee is paid in two equal installments at the beginning and midway through each license year. Notices are mailed about two months before the start of each license year and at least 30 days before each second installment due date. Notice and due dates vary by district.
- If requested by the non-profit contracted to oversee the district, City Council can pass a resolution allowing the fee to be collected in one installment at the beginning of the license year, the due date varying by district.

Data Sources for Calculating Fees

Data Type	Source Required By Code
Assessed Value	Multnomah County Assessment Roll
Square Footage	Multnomah County Office of Assessment and Taxation
Elevator Capacity	Building Codes Division of the Oregon Department of Consumer and Business Services
Consumer Price Index	U.S. Bureau of Labor Statistics
Authorization to Occupy Improvements	City Bureau of Development Services
Building Permit Application Records of the Cost of Physical Change	City Bureau of Development Services
Building Permit Application Records of the Additional Square Feet of Improvements	City Bureau of Development Services

Appeals



Persons or organizations have 30 days from the date notices are mailed to appeal, otherwise are assumed to be liable for paying the fee. Appeals can be made due to:

- The person or organization is not engaged in property management activities.
- The person or organization is exempt from paying the fee.
- The calculated license fee is incorrect.

The Revenue Division may grant an appeal without audit or may audit an appeal to determine whether an appeal should be granted.

The Revenue Division may use any relevant evidence or data when making its determination, except in certain cases where specific data sources are required to be used by City Code.

Determinations and the reasoning for them will be delivered via written notice. The Division's determination is final.

Penalties for Non-Payment of Fees

If the fee is not paid in a timely fashion, unless due to reasonable cause rather than neglect, the Revenue Division can issue a penalty of:

- 5% of the amount due, but not less than \$20, if the delay is one month or less.
- An additional 5% penalty for each additional month or part thereof, up to a maximum of four additional months.
- Interest will be collected on any unpaid fee installment, but not penalties or interest, at the rate of 10% simple interest per annum, calculated on the balance due at the end of each month.
- The Revenue Division may also impose an additional civil penalty of \$500 for failure to pay within 90 days of the written request for payment.

Decisions regarding violations and the imposition of a civil penalty are subject to appeal to the Code Hearings Officer under Portland City Code [Chapter 22.10](#).

The Revenue Division may apply payments to penalty and interest assessments before applying payments to fee installments due.

Contracts

City Code 6.06

City Code 6.06 is the foundation of the Enhanced Service District program in the City of Portland. It outlines general requirements for all ESDs as well as specific requirements for each individual ESD regarding boundaries, fees, and sunset reviews.

ESD Management Contract

Each ESD has a contract between the City and the non-profits which manage each district. The contract outlines the responsibilities of both parties, establishes levels of City oversight, and other legal requirements. No contract can have a term more than five years. The creation of a new or renewal of an existing contract must be approved by City Council.

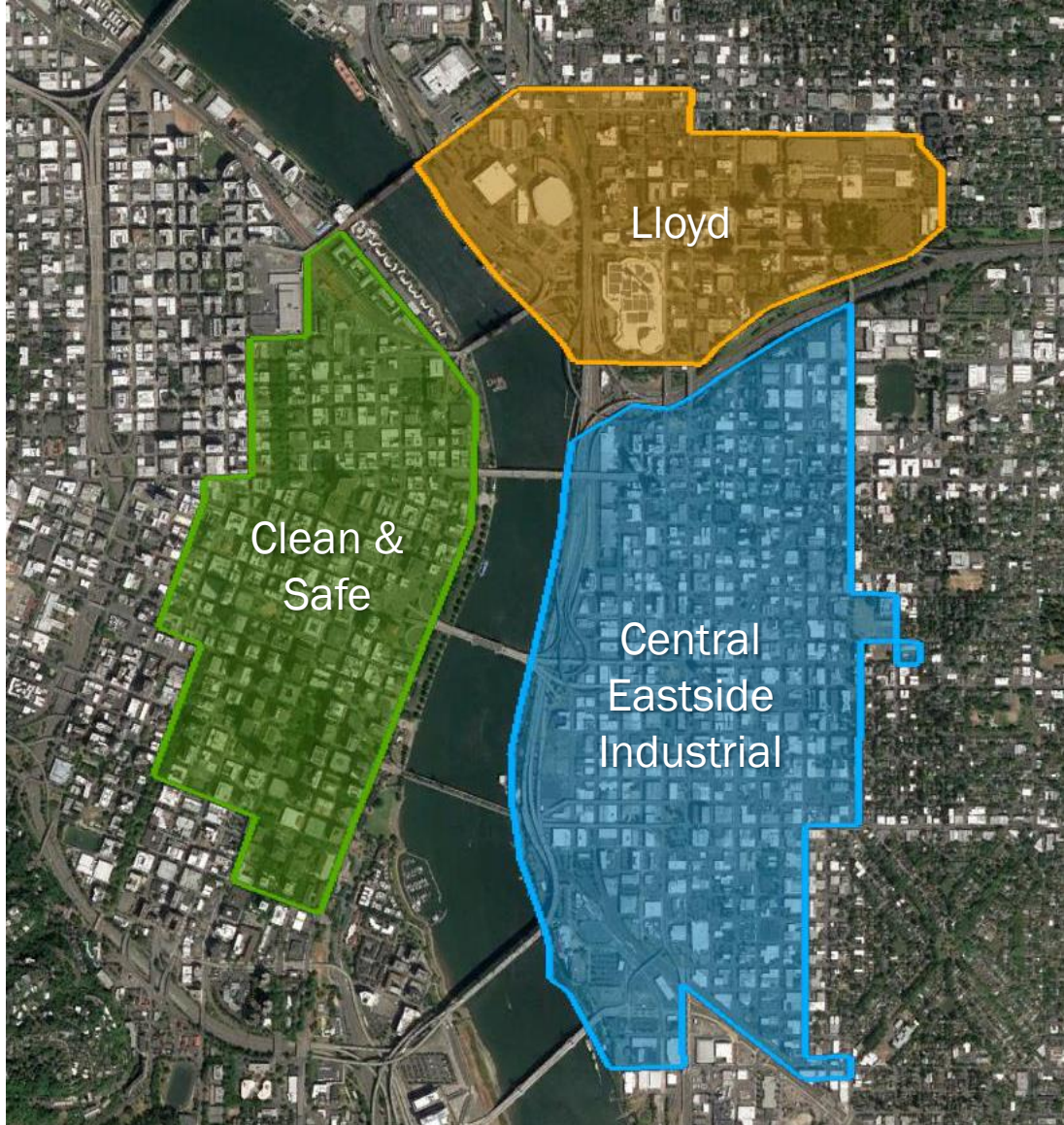
ESD Annual Statement of Work

As required by the management contract, each year each ESD and the City agree to an Annual Statement of Work, which outlines the programs funded by the District and any additional responsibilities to the City related to said programs. Oversight of this annual statement of work is currently handled by the ESD Coordinator.

City Basic Services Agreement

In addition to the ESD Annual Statement of Work, the City is also beginning to include in its ESD contracts a City Basic Services Agreement which annually outlines the basic services provided by the City within each district. Currently only the Clean & Safe contract has a City Basic Services Agreement.

Current Districts



Central Eastside Industrial District

Covering portions of the Buckman, Hosford-Abernethy, and Kerns neighborhoods, the Central Eastside Industrial District is managed by Central Eastside Together.

Clean & Safe District

Covering portions of the Downtown and Oldtown neighborhoods, the Clean & Safe District is managed by Clean & Safe, Inc.

Lloyd

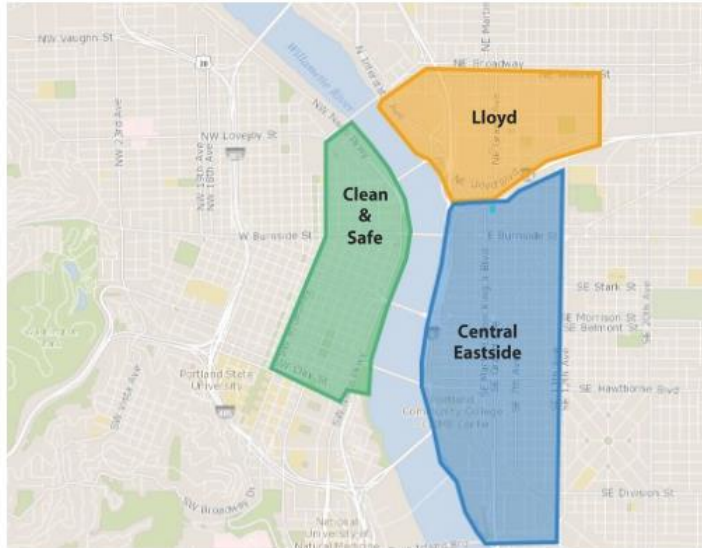
Covering portions of the Lloyd and Sullivan's Gulch neighborhoods, the Lloyd District is managed by Lloyd.

Auditors Report

ENHANCED SERVICES DISTRICTS:

City provides little oversight of privately funded public services

August 2020



Following a grassroots effort by several public advocacy organizations, the City Auditor's office produced a report in August of 2020 outlining multiple issues with the current enhanced service district program.

<https://www.portlandoregon.gov/auditservices/article/764910>

These issues include:

- Limited City oversight of district services and activities
- No guidelines for district formation
- No guidelines for district governance

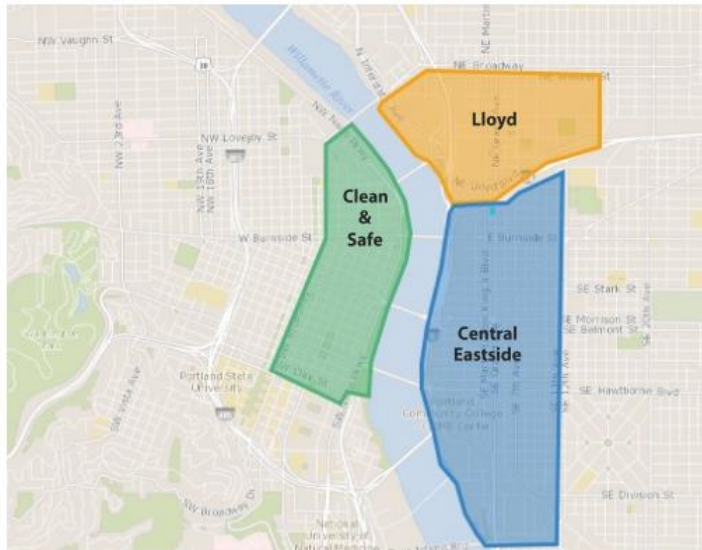
The City Auditor's report was especially concerned over the lack of City oversight with regards to the use of district funds for private security in public spaces, PPB officer positions, and supporting the work of the Multnomah County District Attorney.

Auditors Recommendations

ENHANCED SERVICES DISTRICTS:

City provides little oversight of privately funded public services

August 2020



The City Auditor's report recommended the following to ensure the City meets its obligations to ensure that district services are equitable, and governance is inclusive and transparent:

- Review the status of districts, their purposes, and City's responsibility for them. If the review determines that districts continue to provide services in public spaces, propose City Code for Council approval governing:
 1. District formation
 2. Scope of allowed services in public spaces
 3. Inclusive district governance
 4. Accountable and transparent reporting
- Revise agreements between the City and each district to align them with Code approved in the first recommendation.
- Develop a process for effective City oversight of district agreements. It should include a project manager or liaison over the districts and reporting of district activities to Council and the public, including reporting of security and law enforcement activities.