



ORDINANCE NO. 28538

1 AN ORDINANCE relating to the tax and license codes; amending Tacoma
2 Municipal Code Chapters 6A.10, 6B.10, and 6B.20, related to penalty
3 waivers and license fees, to add a new minimum license threshold, as
4 required by state law, and to update language.

4 WHEREAS a comprehensive review of Title 6 of the Tacoma Municipal
5 Code ("TMC") has not been conducted since 2005, when the City adopted the
6 Model Tax Ordinance, and

7 WHEREAS, at that time, TMC Title 6 was separated into two subchapters
8 creating separate tax and license codes, and

9 WHEREAS, since 2006, the City has offered a pro-rated license fee of
10 one-half of the license fee for businesses that open between July 1 and
11 December 31, and

12 WHEREAS, in 2017, the City added a third tier to the annual business
13 license fee structure, based on the annual gross income of the business, and

14 WHEREAS, in 2017, the Washington State Legislature passed Engrossed
15 House Bill 2005, which requires all cities to create a Model Licensing Ordinance
16 prior to January 1, 2019, establishing a minimum threshold before a business
17 license is required, and

18 WHEREAS the Association of Washington Cities and City licensing officials
19 established a Model Licensing Ordinance that creates a license fee exemption for
20 businesses based outside the City and which have less than \$2,000 in gross
21 income in the City, and

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WHEREAS the proposed amendments to TMC 6A.10, 6B.10, and 6B.20 will add a new minimum license threshold, as required by state law, and update language, and

WHEREAS, on October, 16, 2018, staff presented the proposed TMC amendments to the Government Performance & Finance Committee, which were approved for consideration by the City Council; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Tacoma Municipal Code (“TMC”) 6A.10, General Tax Provisions, is hereby amended as set forth in the attached Exhibit “A.”

Section 2. That TMC 6B.10, General License Provisions, is hereby amended as set forth in the attached Exhibit “B.”

Section 3. That TMC Chapter 6B.20, Application of chapter, is hereby amended as set forth in the attached Exhibit “C.”

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

Chapter 6A.10
GENERAL TAX PROVISIONS

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Sections:

- 6A.10.010 Purpose.
- 6A.10.015 Application of chapter.
- 6A.10.020 Tax definitions.
- 6A.10.021 Definition – References to Chapter 82.32 RCW
- 6A.10.030 *Repealed.*
- 6A.10.040 Reporting periods – Due dates – Filing requirements - Threshold provisions – Failure to file returns.
- 6A.10.050 Filing returns or remittances.
- 6A.10.060 Records to be preserved – Examination – Estoppel to question assessment.
- 6A.10.070 Accounting methods.
- 6A.10.080 Public work contracts – Payment of tax before final payment for work.
- 6A.10.090 Underpayment of tax, interest, or penalty – Interest.
- 6A.10.095 Time in which assessment may be made.
- 6A.10.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.
- 6A.10.110 Late payment – Disregard of written instructions – Evasion – Penalties.
- 6A.10.120 ~~Cancellation~~ Waiver of penalties.
- 6A.10.125 Voluntary registration.
- 6A.10.130 Taxpayer quitting business – Liability of successor.
- 6A.10.140 Appeal.
- 6A.10.150 Judicial review.
- 6A.10.160 Director to make rules.
- 6A.10.170 Ancillary allocation authority of Director.
- 6A.10.180 Service of notices.
- 6A.10.190 *Repealed.*
- 6A.10.200 Public disclosure – Confidentiality – Information sharing.
- 6A.10.210 *Repealed.*
- 6A.10.220 Unlawful actions – Violation – Penalties.
- 6A.10.230 *Repealed.*
- 6A.10.240 Settlement agreement provisions.
- 6A.10.250 Charge-off of uncollectible taxes.
- 6A.10.260 Severability.

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6A.10.120 ~~Cancellation~~ Waiver of penalties.

- A. The Director may cancel any penalties imposed under Section 6A.10.110.A if ~~the~~ taxpayer:
 - 1. Shows that the taxpayer's ~~its~~ failure to timely ~~file or~~ pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that ~~it~~ they exercised ordinary business care and prudence in making arrangements to ~~file the return and~~ pay the tax but was nevertheless, due to circumstances beyond the taxpayer's control, unable to ~~file or~~ pay by the due date; ~~The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection C.~~
 - B2. Submits A request for ~~cancellation~~ waiver of penalties in writing; and must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due.



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3. Includes in Tthe request ~~must be in writing and contain~~ competent proof of all pertinent facts supporting a reasonable cause determination. In all cases, the burden of proving the facts rests upon the taxpayer.

B. The Director may ~~cancel~~waive the penalties in Sections 6A.10.110.A ~~one time~~ if a person:

- 1. ~~Was~~Is not currently licensed and filing returns;
- 2. Was unaware of the person’s responsibility to file and pay tax; and
- 3. Paid and filed all ~~Obtained~~ business license fees and ~~filed past due~~ tax returns within 30 days after being notified by the Department, or entered into a payment agreement approved by the Director, and the past due license fees and tax returns are paid within the terms outlined in the agreement.

C. The Director may waive the penalties in Section 6A.10.110 when a taxpayer has filed and paid on time all tax returns required for the two calendar years prior to the year in which the tax return was filed late, even if the reason for late filing does not meet the criteria of Sections 6A.10.120.A or 6A.10.120.B.

D. The Director shall not ~~cancel~~waive any interest charged upon amounts due.

6A.10.180 Service of notices.

Any notice required by this subchapter to be served to any taxpayer shall be served, to any address of the taxpayer as shown by the records of the Director. Failure of the taxpayer to receive any such notice shall not release the taxpayer from any tax, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this subchapter. It is the responsibility of the taxpayer to inform the Director in writing about a change in a taxpayer’s address.

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EXHIBIT "B"

Chapter 6B.10
GENERAL LICENSE PROVISIONS

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Sections:

- 6B.10.010 Subtitle designated as License Code.
- 6B.10.020 Application of chapter.
- 6B.10.030 License definitions.
- 6B.10.040 License required.
- 6B.10.045 Exemptions for preapproval.
- 6B.10.050 Separate licenses – When required.
- 6B.10.060 Application for license.
- 6B.10.070 Term of license.
- 6B.10.075 Director to make rules.
- 6B.10.080 Due date.
- 6B.10.090 Renewal of license - Late payment
- 6B.10.095 ~~Cancellation~~ Waiver of penalties.
- 6B.10.105 Advertising unlicensed premises.
- 6B.10.110 *Repealed.*
- 6B.10.115 Hours of operation – Massage.
- 6B.10.117 Unlicensed practice – Massage – Penalties.
- 6B.10.120 Service of notices.
- 6B.10.130 Failure to file.
- 6B.10.140 Denial or revocation – Appeal.
- 6B.10.145 Summary suspension – Appeal.
- 6B.10.150 *Repealed.*
- 6B.10.160 Refund of license fee.
- 6B.10.170 *Repealed.*
- 6B.10.180 Inspection.
- 6B.10.190 Investigations and background checks.
- 6B.10.195 Public work contracts – Payment of license fee before final payment for work.
- 6B.10.200 Death of licensee – Continuation of license.
- 6B.10.210 *Repealed.*
- 6B.10.220 Transfer of licenses.
- 6B.10.230 *Repealed.*
- 6B.10.240 Engaging in activity without license – Penalty.
- 6B.10.245 License constitutes debt.
- 6B.10.250 Separate offenses.
- 6B.10.255 Charge-off of uncollectible fees.
- 6B.10.257 Closing agreement provisions.
- 6B.10.260 Violations – Penalties.
- 6B.10.262 Cancellation of civil penalties.
- 6B.10.265 Administrative reviews by the director of Notice of Penalty – Appeal.
- 6B.10.268 Additional relief.
- 6B.10.270 Severability.

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6B.10.095 ~~Cancellation~~ Waiver of penalties.

A. The Director may ~~cancel~~ waive any penalties imposed under Section 6B.10.090 if a person:

- 1. the licensee Shows that the person's failure to timely ~~file or~~ pay the license fee was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the ~~person~~ licensee shows that ~~they~~



exercised ordinary business care and prudence in making arrangements to ~~file the license and~~ pay the license fee but was nevertheless, due to circumstances beyond the person licensee's control, unable to ~~file or~~ pay by the due date; ~~The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection C.~~

2. Submits B. A request for cancellation/waiver of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing; and

3. Includes in the request and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases, the burden of proving the facts rests upon the licensee/person.

BC. The Director may ~~cancel~~ waive any the penalties in Sections 6B.10.090 ~~one time~~ if a person:

1. ~~Is~~ Was not currently licensed;
2. Was unaware of the person's responsibility to file and pay license fees; and
3. Paid and filed all ~~Obtained past due~~ business license fees and ~~filed past due~~ tax returns within 30 days after being notified by the Department, or entered into a payment agreement approved by the Director and the past due license fees and tax returns are paid within the terms outlined in the agreement.

C. The Director may waive the penalties in Section 6B.10.090 when a person has filed and paid on time all license fees required for the two calendar years prior to the year in which the license was filed late even if the reason for late filing does not meet the criteria of Sections 6B.10.095.A or 6B.10.095.B.

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6B.10.160 Refund of license fee.

A. Revocation. Upon revocation, suspension or denial of any license as provided in this chapter, no portion of the license fee shall be returned to the licensee.

B. License application withdrawn. Upon licensee request to withdraw their initial application, the fee paid shall be returned to the applicant by the City, together with notice that the application has been withdrawn; provided that no refund shall be made where the applicant has engaged in the business activity for which the license was intended, or where inspection has been performed by any City department to review said license application.

C. Overpayment. If, upon request by a licensee for a refund ~~or upon an examination of the records of any licensee, and if~~ it is determined by the Director that a fee has been paid in excess of that properly due, the excess amount paid shall be credited to the licensee's account or shall be refunded to the licensee, however, no refund or credit shall be allowed for any payment made to the Director more than four years before the date of such request ~~or examination~~.

D. License fees paid according to Section 6B.20.020.C shall not be credited or refunded due to a business's actual gross income.

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EXHIBIT "C"

**Chapter 6B.20
ANNUAL BUSINESS LICENSE**

Sections:

- 6B.20.010 License required.
- 6B.20.020 License fee.
- 6B.20.030 *Repealed.*
- 6B.20.035 Exemptions.
- ~~6B.20.040 Date of payment. Term of license – Due date – Late payment.~~
- 6B.20.050 License required to be posted at each business location.
- 6B.20.060 Statute of limitations – Unlicensed licensees.

6B.20.010 License required.

It shall be unlawful for any person to engage in business activities within the City, whether his or her office or place of business is located within and/or outside City limits, including any person who engages in the business of renting or leasing real property in the City. without first obtaining a license pursuant to the provisions of this chapter. For purposes of this chapter, this license is referred to as an "annual business license."

6B.20.020 License fee.

Pursuant to Section 6B.20.010, there is hereby imposed an annual business license fee based on anticipated gross income as shown in subsection C, with the following exceptions:

- A. Any charitable organization that has been exempted from payment of taxes to the federal government under Section 501(c)(3) of the Internal Revenue Code shall pay an annual administrative fee of \$25.
- B. In the case where business is transacted at two or more locations by one licensee person, each additional location shall pay an annual administrative fee of \$25.
- C.

Year	<u>Anticipated</u> Gross Income	Annual Fee	<u>Pro-rated fee 1st year (start July 1 – Dec 31)</u>
2006 – 2011	Less than \$10,000	Zero	Zero
2006 – 2011	\$10,000 or more	\$80	\$40
2012 and after	Less than \$12,000	\$25	\$25
2012 – 2016	\$12,000 or more	\$90	\$45
2017 and after	Between \$12,000 and \$250,000	\$110	\$55
2017 and after	More than \$250,000	\$250	\$125

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6B.20.035 Exemptions.

To the extent set forth in this section, the following persons and businesses shall be exempt from the license requirements as outlined in this chapter:

Any person or business who does not maintain a place of business within the City and whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 shall be exempt from the general business license requirements of this chapter. The exemption does not apply to regulatory license requirements.



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6B.20.040 ~~Date of payment~~Term of license – Due date – Late Payment.

~~The annual license fee prescribed herein shall be due on January 31 of each year. Effective January 1, 2004, licensees who engage in the business of renting or leasing real property in the City shall pay the annual license fee. The amount of penalties to be assessed shall be calculated pursuant to the provisions of TMC 6B.10.090.~~

The term of the license shall be January 1 through December 31 of every year. The due date of the license shall be January 31, unless the due date is a Saturday, Sunday, or City or federal legal holiday, then the due date shall be the next succeeding day that is neither a Saturday, Sunday, or City or federal legal holiday. Penalties shall be assessed pursuant to TMC 6B.10.090.

6B.20.060 Statute of limitations – Unlicensed licensees.

With regard to unlicensed licensees, no assessment ~~or correction of an assessment~~ for additional fees and penalties may be made due by the Director more than four years after the close of the calendar year in which they were ~~incurred~~filed, except that the Director may issue an assessment:

- A. Against a person who is not currently registered or has not filed a license as required by this title for fees due within the period commencing 10 years prior to the close of the calendar year in which the person registered with the City was contacted in writing by the Director;
- B. Against a person that has committed fraud or who misrepresented a material fact; or
- C. Against a person that has executed a written waiver of such limitations.