



ORDINANCE NO. 28529

1 AN ORDINANCE relating to the tax and license codes; amending Tacoma
2 Municipal Code (“TMC”) 6A.10, “General Tax Provisions,” and TMC 6B.10,
3 “General License Provisions,” to increase the effectiveness of the licensing
4 revocation options and to add a conditional business license provision.

4 WHEREAS the Business License Code reasons for revocation and
5 suspension of a license have been too limiting in some situations, not allowing the
6 City to take action that would resolve the issue; additionally, the code does not
7 provide for an option to issue a conditional business license, and
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9 WHEREAS staff is recommending comprehensive revisions to Tacoma
10 Municipal Code (TMC”) 6A.10, “General Tax Provisions,” and TMC 6B.10,
11 “General License Provisions,” to establish a stronger enforcement process and
12 shorter timelines, and
13

14 WHEREAS the proposed amendments to TMC 6A.10 and 6B.10 include the
15 following: (1) combining the revocation and denial reasons into one section,
16 providing clearer guidance and treating denial and revocation of a license similarly;
17 (2) adding a new “conditional business license” option; (3) providing that a licensee
18 cannot apply for a new license if the licensee has had a license revoked or denied
19 in the prior 12 months; and (4) providing an additional reason for denial, if licensee
20 has had three previous licenses revoked or suspended, and
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22 WHEREAS, on June 14, 2018, the proposed amendments were presented
23 to the Community Vitality and Safety Committee, and
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WHEREAS the proposed amendments were presented to the City Council
at its Study Session on August 14, 2018; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

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

Section 2. That Chapter 6B.10 of the TMC is hereby amended as set forth
in the attached Exhibit “B.”

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 Registration/license requirements.~~
- 6A.10.040 ~~When due and payable~~ Reporting periods – ~~Monthly, quarterly, and annual returns~~ Due dates – ~~Filing requirements~~ – Threshold provisions ~~or relief from filing requirements~~ – ~~Computing time periods~~ – Failure to file returns.
- 6A.10.050 ~~Payment methods~~ ~~Mailing~~ Filing returns or remittances – ~~Time extension~~ – ~~Deposits~~ – ~~Recording payments~~ – ~~Payment must accompany return~~ – NSF checks.
- 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 ~~fee and~~ 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 of penalties.
- 6A.10.125 Voluntary registration.
- 6A.10.130 Taxpayer quitting business – Liability of successor.
- 6A.10.140 ~~Administrative a~~ Appeal.
- 6A.10.150 Judicial review.
- 6A.10.160 Director to make rules.
- 6A.10.170 Ancillary allocation authority of Director.
- 6A.10.180 ~~Mailing~~ Service of notices.
- ~~6A.10.190 Tax declared additional.~~
- 6A.10.200 Public disclosure – Confidentiality – Information sharing.
- ~~6A.10.210 Tax constitutes debt.~~
- 6A.10.220 Unlawful actions – Violation – Penalties.
- ~~6A.10.230 Suspension or revocation of business registration.~~
- 6A.10.240 ~~Closing~~ Settlement agreement provisions.
- 6A.10.250 Charge-off of uncollectible taxes.
- 6A.10.260 Severability.

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6A.10.020 Tax definitions.

~~For the purposes of this subtitle, the following terms, phrases, words, and abbreviations shall have the meanings given herein unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number, and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined in this subtitle shall have their common and ordinary meaning. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances, or regulations shall be interpreted broadly to cover~~



~~government actions, however nominated, and include laws, ordinances, and regulations now in force or hereinafter enacted or amended.~~

1 The following definitions apply to each section in this subtitle of the Tacoma Municipal Code (“TMC”):

2 “Alcohol” means those substances controlled by the Liquor Control Board.

3 “Calendar year” means January 1 through December 31 of each year.

4 “Cash basis” means a basis of accounting which recognizes revenues and expenses as occurring in the reporting period when they were actually either received or paid.

5 “Certificate” means ~~“registration license certificate”~~ as defined ~~below in Subtitle 6B.10.~~

6 “Charitable organization” means any organization recognized as a nonprofit corporation under the provisions of Chapter 24.03 of the Revised Code of Washington (“RCW”)¹ and exempt from the Washington State business and occupation tax pursuant to RCW 82.04.3651.

7 “City” means the City of Tacoma and all of its departments, including Tacoma Public Libraries and Tacoma Public Utilities. It does not include the Metropolitan Park District of Tacoma, Port of Tacoma, Tacoma School District, or Tacoma Housing Authority, which are separate municipal corporations.

8 “Department” means the Tax and License Division of the Finance Department of the City or any successor department.

9 “Director” means the Director of the Finance Department of the City or any officer, agent, or employee of the City designated to act on the Director’s behalf.

10 “Gambling” means any activity included in the provisions of RCW 9.46.0237.

11 “Generally accepted accounting principles” means those national accounting standards promulgated by the Financial Accounting Standards Board for businesses and nonprofit associations or by the Governmental Accounting Standards Board for state agencies or local governments.

12 “Gross income” means the value proceeding or accruing by reason of the transaction of business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidence of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments, however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued without any deduction on account of losses.

13 “Gross receipts” has the same meaning as gross income. “Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any instrumentality thereof.

14 “Records” means the books of accounts and other business-related records of a taxpayer subject to the City’s Tax Code or License Code. Such records include ledgers, subsidiary ledgers, invoices, receipts, registration and incorporation documents, federal, state and local tax returns, and any other records necessary to establish the amounts due under the provisions of the City’s Code.

15 ~~“Registration certificate” means a non-transferable certificate issued by the Department required to be displayed at the place of business by all persons operating a business under the provisions of Subtitles 6A or 6B of the TMC.~~

16 “Reporting period” means:

- 17 1. A one-month period beginning the first day of each calendar month (monthly reporting period); or
- 18 2. A three-month period beginning the first day of January, April, July, or October of each year (quarterly reporting period); or
- 19 3. A twelve-month period beginning the first day of January of each year (annual reporting period).

20 ¹ All references to the Revised Code of Washington are available upon request from the City Clerk’s Office.



“Return” means any document a person is required by the City to file to satisfy or establish a tax ~~or fee~~ obligation that is administered or collected by the City and that has a statutorily defined due date.

1 “Successor” means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a
2 business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of business
3 of the taxpayer’s business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment
4 of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any
5 contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

“Tax” means the amount, usually based upon gross income, assessed upon a person doing business under the provisions of Subtitle 6A of the TMC for the privilege of doing business in the City.

“Tax Code” means the Subtitle 6A of the TMC.

“Tax year” or “taxable year” means the calendar year.

6 “Taxpayer” means any person subject to the provisions of Subtitles 6A and/or 6B of the TMC, regardless of
7 whether they owe or have previously paid taxes to the City.

6A.10.021 Definitions – References to Chapter 82.32 RCW

8 Where provisions of Chapter 82.32 RCW are incorporated in 6A.10 of this Title, “Department” as used in the
9 RCW shall refer to the “Director” as defined in 6A.10.020, and “warrant” as used in the RCW shall mean
10 “citation or criminal complaint.”

6A.10.030 ~~Registration/license requirements~~

11 ~~No person, whether subject to the payment of a tax or license fee, shall engage in any business or activity in
12 the City for which a license fee or tax may be imposed by this chapter without first obtaining and continuing
13 to hold a valid registration certificate, herein designated “certificate,” issued under the provisions of this
14 chapter. Any such certificate previously issued by the Department² or hereafter issued pursuant to the
15 provisions of this chapter shall be valid as long as the person to whom the same is issued continues in
16 business and pays the license fee or occupation tax due pursuant to the provisions of Title 6. Applications for
17 the certificate shall be made to and issued by the Director on forms provided by the City.~~

14 ~~Said certificate shall be personal and nontransferable. In case business is transacted at two or more separate
15 places by one taxpayer, a separate certificate for each place at which business is transacted shall be required.
16 Each certificate shall be numbered, shall show the name, place, and character of business of the taxpayer,
17 such other information as the Director shall deem necessary, and shall at all times be conspicuously posted in
18 the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer
19 shall return their certificate to the Director and a new certificate shall be issued for the new place of business.~~

17 ~~No person to whom a certificate has been issued shall allow any person for whom a separate certificate is
18 required to operate under or display his or her certificate; nor shall such other person operate under or display
19 such certificate.~~

19 **6A.10.040 ~~When due and payable—Reporting periods – Monthly, quarterly, and annual
20 returns~~Due date – ~~Filing requirements – Threshold provisions or relief from filing
21 requirements –Computing time periods – Failure to file returns.~~**

21 ~~A. Other than any annual license fee or registration fee assessed under this title, ~~t~~The tax imposed by this
22 chapter-subtitle shall be due and payable in quarterly installments. At the Director’s discretion, businesses
23 may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax.~~

22 ~~B. Tax payments are due on or before the last day of the next month following the end of the assigned
23 reporting period covered by the return, unless it is a Saturday, Sunday, or City or federal legal holiday, in
24 which case the due date shall be the next succeeding day which is neither a Saturday, Sunday, or City or
25 federal legal holiday.~~

24 ~~BC. Taxes shall be paid as provided in this chapter-subtitle and accompanied by a return on forms as
25 prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or~~

26 ² Pursuant to Ordinance Nos. 13990, 14895, 17926, or 27010.



agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

1 ~~CD.~~ Tax returns must be filed and returned by the due date whether or not any tax is owed, except that
2 persons whose gross income is exempt from taxation under 6A.30.90.V are not required to submit a tax
3 return.

4 ~~DE.~~ For purposes of the tax imposed by Chapter 6A.30, any person whose value of products, gross proceeds
5 of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than
6 \$20,000 in the current calendar year shall file a return, declare no tax due on their return, and submit the
7 return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even
8 though no tax may be due, except that ~~for~~ persons whose gross income is exempt from taxation under
9 6A.30.90.V are not required to submit a tax return.

10 ~~EF.~~ A taxpayer that commences to engage in business activity shall file a return and pay the tax ~~or fee~~ for the
11 portion of the reporting period during which the taxpayer is engaged in business activity.

12 ~~F.~~ Except as otherwise specifically provided by any other provision of this chapter, in computing any period
13 of days prescribed by this chapter the day of the act or event from which the designated period of time runs
14 shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or City or
15 federal legal holiday, in which case the last day of such period shall be the next succeeding day which is
16 neither a Saturday, Sunday, or City or federal legal holiday.

17 G. If any taxpayer fails, neglects, or refuses to make a return as and when required in this ~~chapter~~ subtitle, the
18 Director is authorized to determine the amount of the tax ~~or fees~~ payable by obtaining facts and information
19 upon which to base the Director's estimate of the tax ~~or fees~~ due. Such assessment shall be deemed prima
20 facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the
21 taxpayer ~~by mail~~ of the amount of tax so determined, together with any penalty, interest, and fees due; the
22 total of such amounts shall thereupon become immediately due and payable.

23 **6A.10.050 ~~Payment methods— Mailing Filing returns or remittances— Time extension—~~**
24 **~~Deposits— Recording payments— Payment must accompany return— NSF checks.~~**

25 ~~A.~~ Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's
26 check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or
electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is
drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all
legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director
shall not discharge the tax or fee due unless the amount paid is the full amount due.

~~B.~~ A return or remittance that is transmitted to the City by United States mail shall be deemed filed or
received on the date shown by the cancellation mark stamped by the Post Office upon the envelope
containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return
or remittance which is transmitted to the City electronically shall be deemed filed or received on the date
submitted according to procedures set forth by the Director.

~~C.~~ If a written request is received prior to the due date, the Director, for good cause, may grant, in writing,
additional time within which to make and file returns.

~~D.~~ The Director shall keep full and accurate records of all funds received or refunded. The Director shall
apply payments first against all penalties and interest owing, and then upon the tax, without regard to any
direction of the taxpayer.

~~E.~~ For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be
deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in
this Subtitle 6A.

~~F.~~ Any payment made that is returned for lack of sufficient funds or for any other reason will not be
considered received until payment by certified check, money order, or cash of the original amount due, plus a
"non sufficient funds" ("NSF") charge of twenty dollars (\$20) is received by the Director. Any license issued
upon payment with a NSF check will be considered void, and shall be returned to the Director. No license
shall be reissued until payment (including the twenty dollar (\$20) NSF fee) is received.



G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this Subtitle 6A.

H. The taxpayer's account will remain on an active status and be subject to all taxes, penalties, and interest until such time as the Director is notified in writing that the taxpayer has discontinued business activity in the City.

6A.10.060 Records to be preserved – Examination – Estoppel to question assessment.

A. Every person liable for any ~~fee or~~ tax imposed by Subtitle 6A shall keep and preserve, for a period of ~~five~~ years after filing a tax return, such records as may be necessary to determine the amount of any ~~fee or~~ tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns and reports, shall be open for examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

AB. If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (1) produces within the City such books and records as may be required by the Director, or (2) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof, including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

BC. Any person who fails or refuses a Department request to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action the correctness of any assessment of taxes made by the City for any period for which such records have not been provided, made available or kept and preserved, or with respect to which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax ~~or fees~~ payable by obtaining facts and information upon which to base the estimate of the tax ~~or fees~~ due. Such ~~fee or~~ tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer ~~by mail of~~ the amount of tax so determined, together with any penalty ~~and~~ interest, ~~and fees~~ due; the total of such amounts shall thereupon become immediately due and payable.

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6A.10.080 Public work contracts – Payment of ~~fee and~~ tax before final payment for work.

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all ~~license fees or~~ taxes, interest, and penalty due under this subtitle from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

6A.10.090 Underpayment of tax, interest, or penalty – Interest.

A. If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax, interest or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person ~~by mail~~ of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

B. 1. ~~Interest owed on taxes due prior to January 1, 2003, shall be computed at 1 percent compounded each month, or portion thereof.~~

2. ~~Interest imposed on reporting periods beginning on January 1, 2003 and prior to January 1, 2005, shall be computed from the last day of the month following the end of the reporting period and will continue to accrue until payment is made. In case of an audit, the interest shall be computed from the first day of the month following each calendar year or portion thereof included in the audit period.~~



3. For the purposes of subsection (2), the rate of interest to be charged to the taxpayer subject to the provisions of subsection (2) shall be an average of the federal short term rate as defined in 26 U.S.C. Sec. 1274(d) plus 2 percentage points. The rate shall be computed by taking an arithmetical average to the nearest percentage point of the federal short term rate, compounded annually. That average shall be calculated using the rates from 4 months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The rate shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

4B. For tax reporting periods beginning on or after December 31, 2004, the interest shall be computed in accordance with RCW 82.32.050, as it now exists or as it may be amended.

5. If 6A.10.090 B(3) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

6A.10.095 Time in which assessment may be made.

The Director shall not assess or correct an assessment for additional taxes, penalties, or interest due more than ~~four~~ years after the close of the calendar year ~~in which they were incurred~~, except that the Director may issue an assessment:

A. Against a person who is not currently registered or has not filed a tax return as required by this title for taxes due within the period commencing ~~four~~ 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.

6A.10.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.

A. If, upon receipt of an application for a refund or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection B of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than ~~four~~ years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

B. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.

~~C. Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.~~

~~D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner as provided in subsection C of this section, upon the filing with the Director a certified copy of the order or judgment of the court.~~

~~E. 1. Interest on overpayment of taxes for reporting periods prior to 2003, refunds or credits of amounts paid or other recovery allowed to a taxpayer, the rate of interest shall be 3 percent per annum.~~

~~2. Interest on overpayments of taxes for reporting periods beginning on or after January 1, 2003 and prior to December 31, 2004, refunds or credits of amounts paid or other recovery allowed to a taxpayer, the rate of interest shall be the federal short term interest rate as outlined for assessments under Section 6A.10.090.B.3 less 2 percentage points.~~

~~3C. Interest on overpayments of taxes for reporting periods beginning on or after January 1, 2005, shall be computed in accordance with RCW 82.32.060, as it now exists or as it may be amended.~~

~~4. If 6A.10.100 E(3) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.~~



6A.10.110 Late payment – Disregard of written instructions – Evasion – Penalties.

1 A. If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.

2 B. If the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.

3 C. If a citation ~~or criminal complaint~~ is issued by the Director, or a criminal penalty is imposed, for the collection of taxes, fees, assessments, interests, or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

4 D. If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this Subtitle 6A and that person has not obtained from the Director a license as required by this Title 6, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection D if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.

5 E. If the Director determines that all or any part of a deficiency resulted from the taxpayer’s failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.

6 F. If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(~~6~~7), as it now exists or as it may be amended.

7 G. The penalties imposed under subsections A through ~~EF~~ of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

8 H. The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

9 ~~I. For the purpose of this section, “return” means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.~~

10 ~~J.~~ If incorporating future changes of RCW 82.32.090 into the TMC City Municipal Code is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

11 * * *

12 **6A.10.130 Taxpayer quitting business – Liability of successor.**

13 A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of ~~his or her the~~ taxpayer’s business or ~~his or her~~ stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within ~~10~~ten days thereafter, make a return and pay the tax due.

14 B. Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the City from the taxpayer until such time as: (1) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due; or (2) more than ~~6~~six months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

15 C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

16 D. Notwithstanding the above, if a successor gives written notice to the Director of the acquisition and the Department does not, within ~~6~~six months of the date it received the notice, issue an assessment against the taxpayer and ~~mail~~ deliver a copy of that assessment to the successor, the successor shall not be liable for the tax.



6A.10.140 Administrative Appeal.

Any taxpayer aggrieved by the amount of any ~~fee~~, tax, interest, or penalty found by the Department to be required under the provisions of this Subtitle 6A may, upon full payment of the amount assessed, appeal from such finding pursuant to the following procedures.

A. Form of appeal. Any appeal must be in writing and must contain the following:

- 1. The name and address of the taxpayer,
- 2. A statement identifying the determination of the Department from which the appeal is taken,
- 3. A statement setting forth the grounds upon which the appeal is taken and identifying specific errors the Department is alleged to have made in making the determination, and
- 4. A statement identifying the requested relief from the determination being appealed.

B. Time and place to appeal. Any appeal shall be filed with the City Clerk no later than 21 days following the date on which the determination of the Department was ~~delivered~~ ~~mailed~~ to the taxpayer. Failure to follow the appeal procedures in this section shall preclude the taxpayer’s right to appeal.

C. Appeal hearing. The Office of the Hearing Examiner shall, as soon as practicable, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The hearing shall be conducted in accord with the provisions of TMC 1.23.

D. Burden of proof. The appellant taxpayer shall have the burden of proving by a preponderance of the evidence that the determination of the Department is incorrect.

~~E. Hearing record. The Hearing Examiner shall make an electronic sound recording of each appeal unless the appeal is conducted solely in writing.~~

~~F.~~ Decision of the Hearing Examiner. Following the hearing, the Hearing Examiner shall enter a decision on the appeal, supported by written findings and conclusions in support thereof. A copy of the findings, conclusions and decision shall be mailed to the appellant taxpayer and to the Department. The decision shall state the correct amount of the ~~fee~~, tax, interest, or penalty owing.

~~G. Refund. If the Hearing Examiner determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer in accordance with Section 6A.10.100.~~

6A.10.150 Judicial review.

The decision of the Hearing Examiner may be appealed by any person having paid any assessment as required by the Department, except one who has failed to keep and preserve books, records, and invoices as required in this chapter, by filing a proper request for a writ of review with the Pierce County Superior Court. A request for a writ of review must be filed within ~~30~~²¹ calendar days following the date that the decision of the Hearing Examiner was ~~delivered~~ ~~mailed~~ to the parties. Review by the superior court shall be on, and shall be limited to, the record on appeal created before the Hearing Examiner. The Department shall have the same right of review from a decision of the Hearing Examiner as does a taxpayer.

* * *

6A.10.180 Mailing Service of notices.

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

6A.10.190 Tax declared additional.

~~The license fee and tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the City, except as herein otherwise expressly provided.~~



6A.10.200 Public disclosure – Confidentiality – Information sharing.

A. For purposes of this section, unless a different meaning is clearly established by context, the following definitions apply:

- 1. “Disclose” means to make known to any person in any manner.
- 2. “Return” means a tax or information return or claim for refund required by, or provided for or permitted under, ~~s~~Subtitle 6A, which is filed with the Director, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;
- 3. “Tax information” means:
 - a. A taxpayer’s identity;
 - b. The nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer’s books and records or any other source;
 - c. Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; and
 - d. Other data received by, recorded by, prepared by, furnished to, or collected by the Director with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under ~~the TMC Subtitle~~ 6A for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure,
- 4. “City agency” means every City office, department, division, bureau, board, commission, or other City agency;
- 5. “Taxpayer identity” means the taxpayer's name, address, telephone number, registration or license number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

B. Returns and tax information are confidential and privileged, and except as authorized by this section, neither the Director nor any other person may disclose any return or tax information.

* * *

~~**6A.10.210 Tax constitutes debt.**~~

~~Any license fee or tax due and unpaid under this Title 6, and all interest and penalties thereon, shall constitute a debt to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.~~

6A.10.220 Unlawful actions – Violation – Penalties.

A. It shall be unlawful for any person liable for taxes ~~or fees~~ under ~~this Title~~Subtitle 6A:

- 1. To violate or fail to comply with any of the provisions of this title or any lawful rule or regulation adopted by the Director;
- 2. To make any false statement on any ~~license application or~~ tax return;
- 3. To aid or abet any person in any attempt to evade payment of a ~~license fee or~~ tax;
- 4. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this title.

B. Unless another criminal penalty has been prescribed for a violation of a specific provision of this chapter, violation of any of the provisions of Subtitle 6A is a misdemeanor. Any person failing to comply with any of the provisions of this subtitle or any lawful rule or regulation adopted by the Director pursuant thereto, upon conviction thereof, may be punished by a fine in any sum not to exceed \$1,000, or by imprisonment not exceeding 90 days, or by both such fine and imprisonment.

C. Penalties or punishments provided in this subtitle may be in addition to all other penalties provided by law.

~~**6A.10.230 Suspension or revocation of business registration.**~~



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A. The Director shall have the power and authority to suspend or revoke any registration or license issued under the provisions of Title 6. The Director shall notify such licensee in writing by certified mail of the suspension or revocation of his or her license and the grounds therefor. Any license issued under Title 6 may be suspended or revoked based on one or more of the following grounds:

1. The registration was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this title.
3. The licensee has failed to comply with any provisions of the TMC.
4. The licensee is in default in any payment of any license fee or tax under Title 6.
5. The licensee or employee has been convicted of a crime involving the business.

B. Any licensee may, within 10 days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal (“petition”) setting forth the grounds therefor with the City Clerk. A copy of the petition must be provided by the licensee to the Director and the City Attorney on or before the date the petition is filed with the City Clerk. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the registration, and may impose any terms upon the continuance of the registration.

No suspension or revocation of a registration issued shall take effect until 10 days after the mailing of the notice thereof by the Director and, if appeal is taken as herein prescribed, the suspension or revocation shall be stayed pending final action by the Hearing Examiner. All registrations which are suspended or revoked shall be surrendered to the City on the effective date of such suspension or revocation.

The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision by the Pierce County Superior Court within 21 days from the date of the decision. If review is sought as herein prescribed, the suspension or revocation shall be stayed pending final action by the Superior Court. Upon revocation of any license as provided in this title, no portion of the license fee shall be returned to the licensee.

6A.10.240 ClosingSettlement agreement provisions.

The Director may enter into an agreement, in writing, with any person relating to the liability of such person with respect of any tax, interest, or penalties imposed by any of the chapters within Subtitle 6A and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and the person so agreeing, the agreement shall be final and conclusive as to the liability or immunity covered thereby, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

A. The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the Director or the taxpayer, and

B. In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

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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—~~Approval or denial~~—Appeal.
- 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—~~Renewal of license~~.
- 6B.10.095 Cancellation of penalties.
- ~~6B.10.100 Method of payment.~~
- 6B.10.105 Advertising unlicensed premises.
- 6B.10.110 Posting or carrying of license.
- 6B.10.115 Hours of operation – Massage.
- 6B.10.117 Unlicensed practice – Massage – Penalties.
- 6B.10.120 Mailing Service of notices.
- 6B.10.130 Failure to file.
- 6B.10.140 Denial or Suspension or revocation – Appeal.
- 6B.10.145 Summary suspension – Appeal.
- ~~6B.10.150 Statute of limitations—Unlicensed licensees.~~
- 6B.10.160 Refund of license fee.
- ~~6B.10.170 Grounds for disqualification of licensees.~~
- 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 Notice of right to suspend or revoke.~~
- 6B.10.220 Assignment~~Transfer~~ of licenses.
- ~~6B.10.230 Licenses subject to specific controls.~~
- 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.10.030 License definitions

The following definitions apply to each section in this subtitle of the TMC:

“Alcohol” means those alcoholic substances controlled by the Liquor Control Board.



1 “Annual business license” means a license for the privilege of doing business with the City or within the City
as required by the provisions of Subtitle 6B of the TMC, this chapter of the License Code of the City. The
annual business license certificate issued by the Department is required to be displayed at the place of
business by all persons operating a business under the provisions of Title 6.

2 “Calendar year” means January 1 through December 31 of each year.

3 ~~“Certificate” means “registration certificate” as defined below.~~ “Certificate of Complaint” is a document filed
with the Pierce County Auditor, stating the property is in violation of Chapter 2.01 of the TMC.

4 “Charitable organization” means any organization recognized as a nonprofit corporation under the provisions
of Chapter 24.03 RCW and exempt from the Washington State business and occupation tax pursuant to
5 RCW 82.04.3651.

6 “City” means the City of Tacoma and all its departments, including Tacoma Public Libraries and Tacoma
Public Utilities. It does not include the Metropolitan Park District of Tacoma, Port of Tacoma, Tacoma
School District, or Tacoma Housing Authority, which are separate municipal corporations.

7 “Department” means the Tax and License Division of the Finance Department of the City or any successor
department.

8 “Director” means the Director of the Finance Department of the City or any officer, agent, or employee of the
City designated to act on the Director’s behalf.

9 ~~“Door to door sales” means the carrying of merchandise for sale from place to place, and the making of sales~~
~~and delivery of merchandise sold at the same time and place~~

10 “Engaging in business” shall be as defined in TMC 6A.30.

11 “Gambling” means any activity included in the provisions of RCW 9.46.0237.

12 “Gross income” means the value proceeding or accruing by reason of the transaction of business engaged in
and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading
13 in stocks, bonds, or other evidence of indebtedness, interest, discount, rents, royalties, fees, commissions,
dividends, and other emoluments, however designated, all without any deduction on account of the cost of
14 tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any
other expense whatsoever paid or accrued without any deduction on account of losses.

15 “Gross receipts” has the same meaning as gross income.

16 “Home-based business” means a business, profession, occupation, or trade conducted for gain or support and
located entirely within a residential building or a building accessory thereto, which use is accessory,
17 incidental, and secondary to the use of the building for dwelling purposes and does not change the essential
residential character or appearance of such building. The intent of this definition is to maintain consistency
with home occupations as defined in Tacoma Municipal Code (“TMC”) 13.06.105, the City’s Zoning Code.

18 “In this City” or “within this City” includes all federal areas lying within the corporate city limits of the City.

19 “License” means any regulatory license required under the provisions of Subtitle 6B of the TMC.

20 “License certificate” means a non-transferable certificate issued by the Department required to be displayed at
the place of business by all persons operating a business under the provisions of Title 6~~the certificate issued~~
~~by the Department pursuant to Subtitle 6B of the TMC.~~

21 “License code” means Subtitle 6B of the TMC.

22 “License fee” means the amount charged by the City for the issuance of any regulatory license required under
the provisions of Subtitle 6B. ~~These~~Regulatory license fees are intended solely to cover all costs of
23 administering the required license.

24 “Licensee” means any person required to be licensed or applying to be licensed under Subtitle 6B.

25 “Massage” or “Massage therapy” means a health care service involving the external manipulation or pressure
of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions,
26 friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or
connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts.
Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body



or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.

1 “Massage business” means the operation of a business where massages are given.

2 “Peddling” means the same as door-to-door sales.

3 “Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any instrumentality thereof.

5 “Public official” means any official designated by the City Manager, or ~~his or her~~ designee, authorized to enforce this chapter, including, but not limited to, officials of the Police Department, Fire Department, Public Works Department, Finance Department, or the Tacoma-Pierce County Health Department charged with the enforcement of a particular portion of this chapter.

7 “Records” means the books of accounts and other business-related records of a licensee subject to the City’s Tax Code or License Code. Such records include ledgers; subsidiary ledgers; invoices; receipts; registration and incorporation documents; federal, state and local tax returns; and any other records necessary to establish the amounts due under the provisions of the City’s Code TMC.

9 “Registration” or to “register” means an identification of real properties owned by a person, for which they use, or intend to use, as rental property.

10 ~~“Registration certificate” means a non-transferable certificate issued by the Department required of all persons operating a business under the provisions of Title 6.~~

11 “Successor” means any person to whom a licensee quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of business of the licensee’s business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the licensee. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

14 “Taxpayer” means any person subject to the provisions of ~~T~~Subtitle 6A, regardless of whether they owe or have previously paid taxes to the City.

15 “Vendor” means any person who exhibits goods or services for sale for the purpose of selling, bartering, trading, exchanging, or advertising such goods or services.

16 * * *

17 **6B.10.060 Application for license—~~Approval or denial—Appeal.~~**

18 No license required hereunder shall be issued except upon application therefor made on forms prescribed by the City. Each application shall be accompanied by the license fee prescribed herein. Upon approval of the application, the license shall be issued by the City and delivered to the applicant. ~~The Director shall approve or deny all applications for licenses required hereunder and any applicant denied a license, or any person objecting to the issuance of any such license, shall, within 10 days after the issuance or denial of such license, appeal said ruling by filing a written notice of appeal, clearly stating the grounds that the appeal is based on, with the City Clerk, and the City Clerk shall set a date for the hearing of such appeal before the Hearing Examiner of the City, which appeal shall be governed by TMC 1.23, and shall notify the applicant in the case of a denial, and the objector and applicant in the case of issuance, by mail, of the time and place of hearing.~~

22 **6B.10.070 Term of license.**

23 All licenses issued pursuant to the provisions of this subtitle, except as to those licenses for which a ~~shorter~~ different term is herein specified, shall be effective as of the first day of the month of issuance regardless of the actual date of issue, and shall expire ~~one~~ one year from the effective date thereof unless sooner revoked ~~or~~ suspended in ~~the~~ manner provided in this chapter.

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6B.10.090 Renewal of license - Late payment—Renewal of license.

1 A. All licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has
2 been no discontinuance of the licensee’s operations or activities. No license may be renewed as herein
3 provided unless the licensee has paid in full all license fees and taxes due to the City.

4 B. Any licensee who shall fail to make payment on or prior to the ~~due~~expiration date of said license shall be
5 subjected to penalties~~y~~ payments in the following amounts; ~~unless an extension based upon good cause is~~
6 granted by the Director:

7 A1. If the license fee is not received on or before the due date: a penalty of 20 percent of the license fee or
8 \$25, whichever is greater.

9 B2. ~~If the license fee is received~~ Any person who shall not secure a renewal within a period of over
10 ~~one~~ month following the due date; ~~of the license fee shall forfeit any and all rights to the renewal thereof,~~
11 but may apply for a new license, in which event he or she shall be charged a penalty equal to 50 percent of the
12 license fee or \$50, whichever is greater. ~~The granting of such a license by the City shall be within the~~
13 discretion of the City.

14 C. Remittance that is transmitted to the City by United States mail shall be deemed filed or received on the
15 date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The
16 Director may allow electronic filing of licenses or remittances from any licensee. Remittance which is
17 transmitted to the City electronically shall be deemed filed or received on the date submitted.

18 All licenses issued subsequent to the initial license period shall be deemed renewal licenses if there has been
19 no discontinuance of the licensee’s operations or activities. No license shall be renewed as herein provided
20 unless the licensee has paid in full all occupational license fees and taxes due to the City pursuant to the
21 ordinances of the City during the preceding license term. Nonpayment of occupational license fees and taxes
22 when due by the licensee during the term of any license shall constitute a ground for revocation of said
23 license.

24 * * *

6B.10.100 Method of payment.

25 A. Fees and penalties shall be paid to the Director in United States currency by bank draft, certified check,
26 cashier’s check, personal check, money order, cash, or by wire transfer or electronic payment if such wire
27 transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on
28 which it is drawn, the licensee, by whom such payment is tendered, shall remain liable for payment of the
29 license and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum
30 by the Director shall not discharge the fee due unless the amount paid is the full amount due.

31 B. Remittance that is transmitted to the City by United States mail shall be deemed filed or received on the
32 date shown by the cancellation mark stamped by the Post office upon the envelope containing it. The Director
33 may allow electronic filing of licenses or remittances from any licensee. Remittance which is transmitted to
34 the City electronically shall be deemed filed or received according to procedures set forth by the Director.

6B.10.105 Advertising unlicensed premises.

35 No person shall place on a building or property within the city limits of Tacoma any advertisement about
36 conducting a specific business activity within the building or on the property unless the person conducting the
37 activity has a valid license pursuant to local, state, or federal law requirements. Advertising includes, but is
38 not limited to, any sign, placard, poster, banner, card, or other advertising matter placed, erected, displayed,
39 or maintained on the outside or in close proximity to any building or place, or in the inside in such a manner
40 as it may be seen from the outside thereof.

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6B.10.120 Mailing Service of notices.

42 Any notice required by this chapter to be mailed ~~served~~ to any licensee shall be sent ~~served~~ by ordinary or
43 electronic mail, delivered mailing or emailing to any~~the~~ address of the licensee as shown by the records of the
44 Director, or shall be served by hand delivery, ~~or if no such address is shown, to such address as the Director is~~
45 able to ascertain by reasonable effort. Failure of the licensee to receive such mailed notice shall not release
46 the licensee from any fee or any penalties thereon, nor shall such failure operate to extend any time limit set



by the provisions of this chapter. It is the responsibility of the licensee to inform the Director in writing about a change in a licensee’s address.

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6B.10.130 Failure to file.

If any licensee fails, neglects, or refuses to file a license application or renewal as and when required under this subtitle-chapter, the Director is authorized to determine the amount of fee payable, together with any penalty assessed under the provisions of this chapter, and by mail notify such licensee of the amount so determined, which amount shall become the fee and penalty and shall become immediately due and payable.

6B.10.140 SuspensionDenial or revocation – Appeal.

A. The Director shall have the power and authority to suspend or revoke any registration or license issued under the provisions of Title 6. The Director shall notify such licensee in writing by certified mail or hand delivery of the suspension or revocation of his or her license or registration and the grounds therefor. Any license or registration issued under this title may be suspended or revoked based on one or more of the following grounds:

1. The registration was procured by fraud or false representation of fact, including, but not limited to, the existence of owners who were not identified on the application.
2. The licensee has failed to comply with any provisions of this title.
3. The licensee has failed to comply with any provisions of the TMC.
4. The licensee is in default in any payment of any license fee or tax under Title 6.
5. The licensee or employee has been convicted of a crime involving the business.
6. Licensee’s continued conduct of the business for which the license or registration was issued will result in a danger to the public health, safety, or welfare by reason of any of the following:
 - a. The licensee, his/her employee or agent has committed a crime or other violation of law, which bears a direct relationship to the conduct of the business under the license or registration issued pursuant to this title. The Director may consider any relevant violation of law regardless of whether the same act was charged as a civil infraction or crime or resulted in a finding of committed or conviction or if it is deferred or subject to pretrial diversion. If a licensee appeals such a suspension, revocation, or denial of a license or registration under this subsection, the violation must be proved by a preponderance of the evidence. Provided, however, that a finding of not committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a basis for a violation under this chapter.
 - b. The licensee, or his/her agents or employees, have in the conduct of the business, violated any local, state, or federal law relating to public health or safety.
 - c. The conduct of the business for which the license or registration was issued has resulted in the creation of a public nuisance as defined in the TMC or in state law.
 - d. The tolerance of a public nuisance or criminal activity, as defined in local, state, or federal law, for which the business owner or operator can reasonably control or prevent.
7. For any reason that would justify denial or disqualification of a license under Section 6B.10.170.

B. Any licensee may, within 10 days from the date that the suspension or revocation notice was mailed to the licensee, appeal such suspension or revocation by filing a written notice of appeal (“petition”) setting forth the grounds therefor with the City Clerk. A copy of the petition must be provided by the licensee to the Director and the City Attorney on or before the date the petition is filed with the City Clerk. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the license or registration, and may impose any terms upon the continuance of the registration.

No suspension or revocation, under this subsection, of a license or registration issued shall take effect until 10 days after the mailing or hand delivery of the notice thereof by the Director and, if appeal is taken as herein prescribed, the suspension or revocation shall be stayed pending final action by the Hearing Examiner. All



licenses or registrations which are suspended or revoked shall be surrendered to the City on the effective date of such suspension or revocation.

1 The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the
2 decision by the Superior Court of Washington in and for Pierce County within 21 days from the date of the
3 decision. If review is sought as herein prescribed, the suspension or revocation shall be stayed pending final
4 action by the Superior Court.

5 Upon revocation of any license or registration as provided in this subchapter, no portion of the license fee
6 shall be returned to the licensee.

7 A. Reasons for denial or revocation. The Director may deny an application for, or revoke any license issued
8 under, the provisions of Title 6 based on one or more of the following grounds:

9 1. The license application contained fraudulent or false representation of fact, including, but not limited to,
10 the existence of owners who were not identified on the application.

11 2. The licensee has failed to comply with any provisions of this title.

12 3. The licensee has failed to comply with any provisions of the TMC related to the operation of the business.

13 4. The licensee is in default of any payment of any license fee or tax under Title 6.

14 5. The licensee or employee has been convicted of a crime involving the business.

15 6. The licensee is a minor under 18 years of age.

16 7. The licensee's regulatory license has been revoked.

17 8. The licensee is not qualified under any specific provision of this subtitle for a particular license for which
18 application is made.

19 9. The Director has reasonable grounds to believe the licensee to be dishonest, desires such license to practice
20 some illegal act or some act injurious to the public health or safety, or the continued conduct of the business
21 for which the license was issued will result in a danger to the public health, safety, or welfare.

22 10. The licensee, or the licensee's agents or employees, has committed a crime or other violation of law
23 which bears a relationship to the conduct of the business under the license issued pursuant to this subtitle. The
24 Director may consider any relevant violation of law regardless of whether the same act was charged as a civil
25 infraction or crime or resulted in a finding of committed or conviction or if it is deferred or subject to pretrial
26 diversion. If a licensee appeals such a suspension, revocation, or denial of a license under this subsection, the
violation must be proved by a preponderance of the evidence; provided, however, that a finding of not
committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a
basis for a violation under this chapter.

11. The licensee, or the licensee's agents or employees, has in the conduct of the business violated, or the
Director reasonably concludes the licensee will not comply with, any local, state, or federal law requirements
relating to public health or safety. The Director may consider any relevant matter, including illegal activity
associated with the licensee's operation of a current business or previously operated business, or the conduct
of the licensee's patrons or employees, inside or outside a current or previously operated business, including
tolerance of a public nuisance, for which the licensee can reasonably control or prevent.

12. The conduct of the business has resulted in the creation of a public nuisance as defined in the TMC or in
state law.

13. The licensee or the property owner where the business is located is subject to a Chronic Nuisance action
under TMC 8.30A.

14. The applicant or licensee has had a license revoked, denied, or suspended three times pursuant to
Subtitle 6B or by any other administrative authority.

B. Application for new license after denial, revocation, or suspension. If the City denies, revokes or suspends
a license, the licensee or person in control of the business may not apply for an annual business license within
12 months after the denial, revocation, or suspension unless it was due to:

1. the applicant being a minor,

2. a violation of a regulatory license in Subtitle 6B, and the violation has since been remedied,



- 3. nonpayment of taxes or license fees pursuant to Title 6 that have since been paid, or
- 4. not having a required local, state, or federal license, but which has since been obtained.

1 C. Notice.

- 2 1. The Director shall notify such licensee in writing by first-class mail or hand delivery of the denial or
revocation of the license and the grounds therefor.
- 3 2. Denial of a license application under this subsection shall take effect immediately upon the mailing or hand
delivery of the denial notice, as if no license was issued.
- 4 3. Revocation of a license issued shall not take effect until ten days after the mailing or hand delivery of the
revocation notice and, if appeal is taken as outlined, the revocation shall be stayed pending final action by the
5 Hearing Examiner. A licensee shall surrender all licenses issued by the City on the effective date of such
6 revocation.

7 D. Conditional License. The Director has the discretion to issue a conditional license after a license has been
8 revoked or denied, if the Director reasonably concludes the licensee is likely able to operate the business in
9 compliance with local and state laws, and if the licensee agrees to comply with conditions imposed by the
10 City. The conditions imposed must be directed at remedying the violations in this subsection or taking
11 proactive measures to prevent the violations from occurring in the future. The licensee may appeal the
12 conditions as provided in subsection below. If the licensee fails to comply with the imposed conditions, the
13 Director may revoke the license.

14 E. Appeal. Any licensee may, within ten days from the date that the denial, revocation, or conditional license
15 notice was delivered to the licensee, appeal such notice by filing a written notice of appeal setting forth the
16 grounds of the appeal with the City Clerk. The hearing shall be conducted in accordance with the procedures
17 for hearings as set forth in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and
18 notify the licensee by mail of the time and place of the hearing. After the hearing, the Hearing Examiner shall,
19 after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the denial, revocation, or
20 conditional license, or reinstate the license, and may impose any conditions upon the continuance of the
21 license.

22 The decision of the Hearing Examiner shall be final. The licensee or the Director may seek review of the
23 decision by the Superior Court of Washington in and for Pierce County within 21 days from the date of the
24 decision. If review is sought as herein prescribed, a revocation shall be stayed pending final action by the
25 Superior Court.

26 **6B.10.145 Summary suspension – Appeal.**

~~A. Where conditions exist that are deemed hazardous to life or property, or where the owner or his or her employee or agent has knowingly permitted a violation of the uniform controlled substances act, a violation of any law against gambling, or a violation of any law against prostitution within the business, the public official in charge is authorized to immediately stop such hazardous conditions that are in violation of this code, up to and including closing the business operation. Such order and demand may be oral or written.~~

~~B. At the time the Director notifies the licensee of the summary suspension, either by mail or hand delivery, the Director shall also schedule a hearing to be held within 3 business days from the date of the notice of summary suspension. Where an oral summary suspension is ordered or demanded by a public official the Director shall schedule a hearing to be held within 3 business days from the date of the summary suspension and the licensee will be notified by mail, facsimile, email, personal service or hand delivery. Such notices shall state the time and place of the hearing.~~

~~The decision of the Director shall be final. The licensee may, within 10 days from the date of the Director’s decision, appeal such suspension or revocation by filing a written notice of appeal (“petition”) setting forth the grounds therefor with the City Clerk. A copy of the petition must be provided by the licensee to the Director and the City Attorney on or before the date the petition is filed with the City Clerk. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the summary suspension and reinstate the license or registration, and may impose any terms upon the continuance of the license.~~



The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision by the Superior Court of Washington in and for Pierce County within 21 days from the date of Hearing Examiner's decision.

A. The Director or public official in charge is authorized to immediately stop hazardous conditions that are in violation of the TMC, up to and including closing the business operation. At the order of the public official, occupants shall be required to immediately vacate the building and cease all activity at the site. Such order and demand may be oral or written. Failure to comply with the orders of the City of Tacoma official is a misdemeanor.

B. Such hazardous conditions include but may not be limited to:

- 1. Conditions that exist that are deemed hazardous to life or property.
- 2. The owner or owner's employee or agent has knowingly permitted a violation:
 - a. of the Uniform Controlled Substances Act;
 - b. of any law against gambling;
 - c. of any law against sales or distribution of firearms and dangerous weapons; or
 - d. of any law against prostitution within the business.
- 3. Unlicensed operations or unlawful occupancy.

C. Conditional License. The Director has the discretion to issue a conditional license, if the Director reasonably concludes the licensee is likely able to operate the business in compliance with local and state laws and if the licensee agrees to comply with conditions imposed by the City. The conditions imposed must be directed at remedying the violations in this subsection or taking proactive measures to prevent the violations in this subsection from occurring in the future. The licensee may appeal the conditions as provided in subsection D below. If the licensee fails to comply with the imposed conditions, the Director shall revoke the license.

D. Hearing Notice. At the time the Director or public official notifies the licensee of the summary suspension, either by mail, hand delivery, or by posting the notice of summary suspension in a prominent location on the premises, the Director shall also schedule a hearing to be held within three business days from the date of the notice of summary suspension. Where an oral summary suspension is ordered by a public official, the Director shall schedule a hearing to be held within three business days from the date of the summary suspension and the licensee will be notified of the summary suspension and hearing by mail, facsimile, email, personal service, or hand delivery. Such notices shall state the time and place of the hearing.

The decision of the Director shall be final. The licensee may, within ten days from the date of the Director's decision, appeal such suspension by filing a written notice of appeal setting forth the grounds of the appeal with the City Clerk. The hearing shall be conducted in accordance with the procedures for hearings as set forth in TMC 1.23. The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon, the Hearing Examiner shall, after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the summary suspension and reinstate the license, and may impose any terms upon the continuance of the license.

The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision by the Superior Court of Washington in and for Pierce County within 21 days from the date of the Hearing Examiner's decision.

~~6B.10.150 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, except upon showing of the licensee's failure to file a license application as and when required under this chapter, which failure to file a license application resulted from the licensee's willful and fraudulent intent to avoid payment of the required fees.~~

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~~6B.10.170 Grounds for disqualification of licensees.~~

~~Pursuant to the provisions of this subtitle, no license shall be issued to the following persons:~~



A. Any minor under 18 years of age.

B. Any person who, if licensed, is likely to present a danger to the public health, safety, or welfare by reason of any of the following:

1. The applicant or his or her employee or agent has committed a crime or other violation of law which bears a direct relationship to the conduct of the business under the license issued pursuant to this title. The Director may consider any relevant violation of law regardless of whether the same act was charged as a civil infraction or crime or resulted in a finding of committed or conviction or if it is deferred or subject to pretrial diversion. If a licensee appeals such a denial of a license under this subsection, the violation must be proved by a preponderance of the evidence. Provided, however, that a finding of not committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a basis for a violation under this chapter.

2. The applicant has had a similar license revoked or suspended pursuant to the provisions of Section 6B.10.140 above or has had a similar license revoked or suspended by any other administrative authority.

3. The Director has reasonable grounds to believe applicant to be dishonest or to desire such license to enable applicant to practice some illegal act or some act injurious to the public health or safety.

C. Any person who is not qualified under any specific provision of this subtitle for any particular license for which application is made.

D. The Director may deny a license if:

1. The applicant or his or her employee or agent has committed a series of crimes or other violations of law that show a disregard for the law and the Director reasonably concludes, based on this conduct, that the applicant will not comply with the provisions of this title or other applicable laws applicable to the operation of the business. The Director may consider any relevant violation of law, regardless of whether the same act was charged as a civil infraction or crime or resulted in a conviction or finding of committed, or if it is deferred or subject to pretrial diversion. If a licensee appeals such a denial of a license under this subsection, the violation must be proved by a preponderance of the evidence. Provided, however, that a finding of not committed on a civil infraction or a verdict of not guilty on a criminal charge precludes use of that act as a basis for a violation under this chapter.

2. For any reason that would justify denial of the license under Section 6B.10.140 or Section 6B.10.145;

3. When the Director reasonably concludes that the applicant will not comply with the provisions of this title or other applicable local, state, or federal laws applicable to the operation of the business or that the operation of the business is likely to endanger public health or safety. The Director may consider any relevant matter, including illegal activity associated with the applicant's operation of another business, or the conduct of the applicant's patrons or employees inside or outside a similar business operated by the applicant.

6B.10.180 Inspection.

All licensees shall be open to inspection, including records required to be maintained pursuant to this ~~chapter~~ subtitle, by the Director, during licensee's normal business hours and, in any event, from 8:00 a.m. to 5:00 p.m., Monday through Friday. The licensee, business owner, manager, or other responsible party shall allow entry by City of Tacoma officials for the purposes of ensuring for public safety or inspecting for compliance of Title 6 at any time the facility is open. Denial of entry is cause for summary suspension of the license.

6B.10.190 Investigations and background checks.

A. All ~~licensees~~ applications for licenses shall be investigated by such departments or officers of the City as the Director may determine.

B. All ~~licensees~~ applicants for a license may be subject to a state and/or federal criminal background check, and the results of such check may be sufficient grounds for denial of a license.

6B.10.195 Public work contracts – Payment of license fee before final payment for work.

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees and penalty due under this subtitle from such



person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

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~~**6B.10.210 Notice of right to suspend or revoke.**~~

~~Every license issued pursuant to the provisions of this subtitle shall state thereon, in substance, that such license is issued in consideration of the fee paid therefor and that the same is subject to suspension or revocation in the manner provided in this chapter.~~

~~**6B.10.220 Assignment**~~**Transfer of licenses.**

~~A. No license may be assigned or transferred, except:~~A license may only be transferred when any of the following conditions exist:

~~1. Where a licensee person shall consist~~1. Where a licensee person shall consist of a partnership and there occurs a change in the membership thereof;

~~2. Where a sole proprietor incorporates or forms a limited liability company;~~2. Where a sole proprietor incorporates or forms a limited liability company; or

~~3. Where a corporation dissolves and former shareholders succeed to its interest, then a transfer shall be authorized if and~~3. Where a corporation dissolves and former shareholders succeed to its interest, then a transfer shall be authorized if and the beneficial owners originally procuring the license shall retain not less than a 50 percent interest in said successor entity ~~and appropriate application is made for the transfer of said license.~~

~~B. A request for transfer shall be made and shall contain all information required in the original application for license, and~~B. A request for transfer shall be made and shall contain all information required in the original application for license, and the prospective transferee shall pay a transfer fee of \$50 ~~and. The transfer shall be subject to all terms, conditions, and requirements of the original application, except that the only fee required therefor shall be as above set forth.~~

~~C. If~~C. If When a license is transferred and issued to the new licensee upon the request for transfer, the term of such license shall be only for the unexpired term of the original license, and thereafter a new or renewal application shall be required by the new licensee made.

~~**6B.10.230 Licenses subject to specific controls.**~~

~~The issuance of a license pursuant to the terms of this subtitle and all activities of any licensee granted a license hereunder shall at all times be subjected to all ordinances and regulations of the City enacted in the exercise of its police power, and the prohibition or regulation of any specific activity or sale of commodity by specific ordinance shall prevail over the terms and conditions of this subtitle wherever they may conflict.~~

~~**6B.10.240 Engaging in activity without license — Penalty.**~~

~~Unlicensed operations and unlawful occupancy shall be subject to summary suspension. At the order and demand of the City of Tacoma official occupants shall be required to immediately vacate the building and cease and desist all activity at the site. Failure to comply with the orders of the City of Tacoma official may result in a criminal citation being issued to the responsible party or parties. Such order and demand may be oral or written.~~

~~Any person engaging in any activity for which a license is required pursuant to the provisions of this subtitle, without making an application for a license at the time of the commencement of said activity, shall pay, in addition to the license fees set forth herein, the penalty as set forth in Section 6B.10.090 and shall be subject to such further penalties as set forth herein.~~

~~The mere filing of an application for a license shall not give the applicant any right to engage in the activity covered thereby.~~

~~**6B.10.245 License constitutes debt.**~~

~~Any license fee due and unpaid under this Title 6, and all interest and penalties thereon, shall constitute a debt to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.~~

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6B.10.250 Separate offenses.

Each day that ~~any~~ person shall operate any device, vehicle, or thing, or engage in any business, calling, profession, trade, occupation, or activity licensed herein without having procured a valid existing license as provided for by this subtitle shall constitute a separate offense ~~and be punished as such.~~

6B.10.260 Violations – Penalties.

A. Unless another criminal penalty has been prescribed for a violation of a specific provision of this chapter, violation of any of the provisions of Subtitle 6B is a misdemeanor. Any person violating or failing to comply with any of the provisions of this subtitle or any lawful rule or regulation adopted by the Director pursuant thereto, upon conviction thereof, may be punished by a fine in any sum not to exceed \$1,000, or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment.

B. Any person violating or failing to comply with any of the provisions of this subtitle, or any lawful rule or regulation adopted by the Director pursuant thereto, may also be subject to a civil penalty as described below for each day during which the business is carried on in violation of this subtitle. Civil penalties may continue to accumulate each day until the person comes into compliance with the provisions of this subtitle.

~~The City will have discretion to impose a civil penalty. It is the responsibility of the business owner to contact appropriate city staff to request inspection for compliance with this code.~~

C. Civil Penalty. Penalties for violations of this chapter may be assessed in the amount of \$250.

D. Penalties: main procedural requirements.

1. The City shall give notice of the penalty.

2. The notice shall state-

(a) that the City has imposed a penalty against the person concerned;

(b) the amount of the penalty;

(c) the code violation for which the City considers gave it the power to impose the penalty;

(d) any other facts which the City considers justify the imposition of a penalty and the amount or amounts of the penalty;

~~(e) the manner in which, and place at which, the penalty is required to be paid to the City;~~

~~(e) that the person concerned has the right to request an Administrative Review under Section 6B.10.265, and the main details of those rights;-~~

(f) that penalties may accumulate each day until the person comes into compliance with the provisions of this subtitle.

3. A notice under this section shall be given by:

(a) ~~first class mail~~service to the person on whom the penalty was imposed; or

~~(b) served directly to the person on whom the penalty is imposed; or~~

~~(e) posted on the property.~~

~~4. Civil penalties will continue to accumulate until the person comes into compliance with the provisions in this subtitle. A Certificate of Complaint may be filed where the person owns the property. Where the person is leasing or renting a judgment may be filed against the person.~~

~~E. Once a Certificate of Complaint has been filed, t~~The City of Tacoma may place a utility restraint on the property.

~~F. A license may be suspended or revoked in accord with Section 6B.10.140 or 6B.10.145 above.~~

~~G. Any person convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000 or imprisonment not to exceed one year, or both such fine and imprisonment.~~

~~H~~F. Penalties ~~or punishments~~ provided in this subtitle may be in addition to all other penalties provided by law.



6B.10.262 Cancellation of civil penalties.

1 ~~A~~-The Director may cancel any civil penalties imposed under Section 6B.10.260 if the person comes into
2 compliance within ~~five~~ calendar-business days of the notice or shows that its failure to comply was due to
3 reasonable cause and not willful neglect. Willful neglect is presumed unless the person shows that it exercised
4 ordinary business care and prudence in making arrangements to comply but was nevertheless, due to
5 circumstances beyond the person's control, unable to comply. The Director has no authority to cancel any
6 other penalties or to cancel penalties for any other reason other than specified in this chapter.

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