Chapter 6A.20

ADMISSION TAX

Sections:

~~6A.20.010 Administrative provisions.~~

~~The administrative provisions of Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

Chapter 6A.30

BUSINESS AND OCCUPATION TAX

Sections:

6A.30.010 Purpose.

This section implements Washington Constitution Article XI, Section 12 and RCW 35.22.280(32) (first class cities), which give municipalities the authority to license for revenue. In the absence of a legal or constitutional prohibition, municipalities have the power to define taxation categories as they see fit in order to respond to the unique concerns and responsibilities of local government. It is intended that this chapter be as uniform as possible among the various municipalities. Uniformity with provisions of state tax laws should not be presumed, and references in this section to statutory or administrative rule changes do not mean state tax statutes or rules promulgated by the Department of Revenue.

(Ord. 27297 § 1; passed Nov. 23, 2004)

~~6A.30.020 Exercise of revenue license power.~~

~~The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the TMC.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6A.30.028 Administrative provisions.~~

~~The administrative provisions contained in Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.30.030 Definitions.

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

"Advance," "reimbursement."

A. “Advance” means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees on behalf of the customer or client.

B. “Reimbursement” means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees of the customer or client.

“Agricultural product,” “farmer.”

A. “Agricultural product” means any product of plant cultivation or animal husbandry including, but not limited to: a product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture, as defined in RCW 15.85.020; plantation Christmas trees; turf; or any animal, including, but not limited to, an animal that is a private sector cultured aquatic product, as defined in RCW 15.85.020, or a bird, insect, or the substances obtained from such an animal. “Agricultural product” does not include animals intended to be pets and does not include marijuana as defined by RCW 69.50.101(t).

B. “Farmer” means any person engaged in the business of growing or producing, upon the person’s own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. “Farmer” does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person’s own consumption. “Farmer” does not include a person selling any animal or substance obtained therefrom in connection with the person’s business of operating a stockyard or a slaughter or packing house. “Farmer” does not include any person with respect to the business of taking, cultivating, or raising timber.

“Business” includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

“Business and occupation tax” or “gross receipts tax” means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

“City” means the City of Tacoma.

“Commercial or industrial use” means the following uses of products, including by-products, by the extractor or manufacturer thereof:

A. Any use as a consumer;

B. Any use in the manufacturing of products including articles, substances or commodities.

“Competitive telephone service” means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

“Consumer” means the following:

A. Any person who purchases, acquires, owns, holds, or uses any tangible or intangible personal property irrespective of the nature of the person’s business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for a consumer other than for the purpose of:

1. Resale as tangible or intangible personal property in the regular course of business;

2. Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

3. Incorporating such property as an ingredient or component of a new product or as a chemical used in processing a new product when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new product; or

4. Consuming the property in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

B. Any person engaged in any business activity taxable under Section 6A.30.050.A.9;

C. Any person who purchases, acquires, or uses any competitive telephone service as herein defined, other than for resale in the regular course of business;

D. Any person who purchases, acquires, or uses any personal, business, or professional service defined as a retail sale or retail service in Section 6A.30.030, other than for resale in the regular course of business;

E. Any person who is an end user of software;

F. Any person engaged in the business of "public road construction" with respect to tangible personal property when that person incorporates the tangible personal property as an ingredient or component of a publicly-owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing, or spreading the property in or upon the right-of-way of a publicly-owned street, place, road, highway, easement, bridge, tunnel, or trestle, or in or upon the site of a publicly-owned mass public transportation terminal or parking facility;

G. Any person who is an owner, lessee, or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business;

H. Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

I. Any person engaged in "government contracting." Any such person shall be a consumer within the meaning of this subsection with respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person;

Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of "consumer."

"Delivery" means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

"Digital automated service," "digital code," and "digital goods" have the same meaning as in RCW 82.04.192.

"Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b).

"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.

"Eligible gross receipts tax" means a tax which:

A. Is imposed on the act or privilege of engaging in business activities within Section 6A.30.050; and

B. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and

C. Is not, pursuant to law or custom, separately stated from the sales price; and

D. Is not a sales or use tax, business license fee, franchise fee, royalty, or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right, or a privilege; and

E. Is a tax imposed by a local jurisdiction, whether within or without the state of Washington, and not by a country, state, province, or any other non-local jurisdiction above the county level.

“Engaging in business.”

A. The term “engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

B. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license or pay City business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection A above. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

C. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker, or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

1. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

2. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in the City.

3. Soliciting sales.

4. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

5. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

6. Installing, constructing, or supervising installation or construction of, real or tangible personal property.

7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

8. Collecting current or delinquent accounts.

9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

10. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

11. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs, and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians.

12. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

13. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

14. Investigating, resolving, or otherwise assisting in resolving customer complaints.

15. In-store stocking or manipulating products or goods sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

16. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

~~17. Accepting or executing a contract with the City, irrespective of whether goods or services are delivered within or without the City, or whether the person’s office or place of business is within or without the City.~~

D. If a person, or an employee, agent, representative, independent contractor, broker, or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.

1. Meeting with suppliers of goods and services as a customer.

2. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

3. Attending meetings such as board meetings, retreats, seminars, conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

4. Renting tangible or intangible property as a customer when the property is not used in the City.

5. Attending, but not participating in, a "trade show" or "multiple vendor events." Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

6. Conducting advertising through the mail.

7. Soliciting sales by phone from a location outside the City.

E. A seller located outside the City merely delivering goods into the City by means of a common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (D).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the state of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

"Extracting" is the activity engaged in by an extractor and is reportable under the extracting classification.

"Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

"Extractor for hire" means a person who performs under contract necessary labor or mechanical services for an extractor.

"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences 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 and without any deduction on account of losses.

"Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

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

"Investment management services."

A. "Investment management services" includes investment research, investment consulting, fund administration, fund distribution, investment transactions, or related investment services to persons or for or on behalf of a collective investment fund. A person is considered to be engaged in providing international investment management

services if such person is providing investment management services and/or is a member of an affiliated group (a group of corporations under common ownership or control) primarily in the business of providing investment management services to collective investment funds, and at least 15 percent of the gross income of the person and/or affiliated group is derived from providing investment management services to any of the following:

1. Persons or collective investment funds residing outside the United States; or

2. Collective investment funds with at least 50 percent of their investment assets located or issued outside the United States.

B. For the purpose of this section, "collective investment fund" includes:

1. A mutual fund or other regulated investment company as defined in Section 851(a) of the Internal Revenue Code of 1986, as amended;

2. An investment company, as that term is used in Section 3(a) of the Investment Company Act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in Section 3(c)(1) or (11) of the aforesaid 1940 Act;

3. An employee benefit plan, which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in Sections 125, 401, 403, 408, 457, and 501(c)(9), and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

4. A fund maintained by a tax-exempt organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

5. Funds that are established for the benefit of such tax exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

6. Collective investment funds similar to those described in subsections (B)(1) through (5) of this section created under the laws of a foreign jurisdiction.

"Manufacturer," "to manufacture."

A. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes or sells to a customer, prior to manufacture, materials or ingredients equal to less than 20 percent of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire and not a manufacturer. A business not located in the City that is the owner of materials or ingredients processed for it in the City by a processor for hire shall be deemed to be engaged in business as a manufacturer in the City.

B. "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

1. The production of special made or custom made articles;

2. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;

3. Crushing and/or blending of rock, sand, stone, gravel, or ore, and

4. The producing of articles for sale, or for commercial or industrial use, from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties, or combinations, including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

"To manufacture" shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media,

including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

“Manufacturing” means the activity conducted by a manufacturer and is reported under the manufacturing classification.

“Newspaper,” “magazine,” “periodical.”

A. “Newspaper” means a publication offered for sale regularly at stated intervals at least once per week and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind.

B. “Magazine” or “periodical” means any printed publication, other than a newspaper, issued and offered for sale regularly at stated intervals at least once every three months, including any supplement or special edition of the publication. Any publication meeting this definition qualifies regardless of its content.

“Office” or “place of business” means a fixed location or permanent facility where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control. The regular business of the person is presumed conducted at a location:

A. Whose address the person uses as his or her business mailing address; and

B. Where the place of primary use is shown on a telephone billing or a location containing a telephone line, listed in a public telephone directory or other similar publication, under the business name; and

C. Where the person holds him- or herself out to the general public as conducting his or her regular business through signage or other means; and

D. Where the person is required to obtain any appropriate state and local business license or registration unless he or she is exempted by law from such requirement.

A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or place of business. A post office box is not an office or place of business.

If a person has an office or place of business, the person’s home is not an office or place of business unless it meets the criteria for office or place of business above. If a person has no office or place of business, the person’s home or apartment within the City will be deemed the place of business.

“Option to purchase” shall mean a continuing offer or contract by which owner stipulates with another that the latter shall have the right to buy property at a fixed dollar price within a certain time. An agreement is only an option when no obligation rests on the potential buyer to make any payment except such as may be agreed upon by the parties as consideration to support the option until the potential buyer has made up his or her mind within a time specified to complete the purchase. The use of the term “fair market value” or any other like term shall not be substituted for a fixed dollar price in determining if an “option to purchase” exists.

“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.

“Precious metal bullion” or “monetized bullion.”

A. “Precious metal bullion” means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form.

B. “Monetized bullion,” for purposes of this section, means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

“Processing for hire” means the performance of labor and mechanical services upon materials or ingredients belonging to others so that as a result a new, different, or useful product is produced for sale or commercial or

industrial use. A processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials or ingredients. If a person furnishes or sells to a customer, prior to manufacture, materials or ingredients equal to 20 percent or more of the total value of all materials or ingredients that become a part of the finished product the person will be deemed to be a manufacturer and not a processor for hire.

"Product" or "byproduct."

A. "Product" means tangible personal property, including articles, substances, or commodities created, brought forth, extracted, or manufactured by human or mechanical effort.

B. "Byproduct" means any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.

"Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

"Retail service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

A. Amusement and recreation services including, but not limited to, golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquetball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

B. Abstract, title insurance, and escrow services;

C. Credit bureau services;

D. Automobile parking and storage garage services;

E. Landscape maintenance and horticultural services, but excluding (1) horticultural services provided to farmers, and (2) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

F. Service charges associated with tickets to professional sporting events;

G. The following personal services: physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.

H. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

"Royalties" means compensation for the use of intangible property, such as copyrights, patents, licenses, franchises, trademarks, trade names, and similar items.

"Sale," "casual or isolated sale."

A. "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail," "retail sale," or "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation, whether consumed upon the premises or not.

B. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

"Sale at retail," "retail sale."

A. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others,

without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

1. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

2. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

3. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

4. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

5. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (1), (2), (3), (4), or (5) of this subsection following such use.

6. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (F) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

B. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under Sections 6A.30.050.A.7 or .9.

C. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered with respect to the following:

1. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities with respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered with respect to live animals, birds and insects;

2. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

3. The charge for labor and services rendered with respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

4. The sale of or charge made for labor and services rendered with respect to the cleaning, fumigating, razing, or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section, the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal, or sandblasting. Prior to 2003, fumigating, razing, or moving of buildings would be taxable under the service classification;

5. The sale of or charge made for labor and services rendered with respect to automobile towing and similar automotive transportation services, but not with respect to those required to report and pay taxes under RCW 82.16. Prior to 2003, this activity would be taxable under the service classification;

6. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease real property and not a mere license to enjoy the same;

7. The installing, repairing, altering, or improving of digital goods for consumers;

8. The sale of or charge made for tangible personal property, labor and services to persons taxable under (1), (2), (3), (4), (5), (6), and (7) of this subsection when such sales or charges are for property, labor, and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor, and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection A of this section and nothing contained in subsection A of this section shall be construed to modify this subsection.

D. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

E. 1. "Sale at retail" or "retail sale" shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection E(1) the sale of the prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

The term "sale at retail" or "retail sale" does not include the sale of or charge made for:

a. Custom software or;

b. The customization of prewritten software.

2. a. The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

b. i. The service described in 2.a. of this subsection E includes the right to access and use prewritten software to perform data processing.

ii. For purposes of this subsection 2.b., "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

F. "Sale at retail" or "retail sale" shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.

G. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered with respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States, and which is used or to be

used primarily for foot or vehicular traffic including mass transportation vehicles of any kind (Public road construction).

H. “Sale at retail” or “retail sale” shall also include the sale of or charge made for labor and services rendered with respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to RCW 35.82, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).

I. “Sale at retail” or “retail sale” shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste, and other byproducts of weapons production and nuclear research and development. (This should be reported under the service and other classification.)

J. “Sale at retail” or “retail sale” shall not include the sale of or charge made for labor and services rendered for environmental remedial action . (This should be reported under the service and other classification.)

K. “Sale at retail” or “retail sale” shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

1. Sales in which the seller has granted the purchaser the right of permanent use;

2. Sales in which the seller has granted the purchaser a right of use that is less than permanent;

3. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

4. Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

A retail sale of digital goods, digital codes, or digital automated services under this subsection K includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

For purposes of this subsection, “permanent” means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

L. “Sale at retail” or “retail sale” shall also include the installing, repairing, altering, or improving of digital goods for consumers.

“Sale at wholesale” or “wholesale sale” means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in section E.2.a which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

“Services” means any activity that does not fall within one of the other tax classifications of the City.

“Software,” “prewritten software,” “custom software,” “customization of canned software,” “master copies,” or “retained rights.”

A. “Prewritten software” or “canned software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which said person(s) is not the author or creator, the person shall be deemed to be the author or creator only of the person’s modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any

degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

B. "Custom software" means software created for a single person.

C. "Customization of canned software" means any alteration, modification, or development of applications using or incorporating canned software to specific individualized requirements of a single person. Customization of canned software includes individualized configuration of software to work with other software and computer hardware, but does not include routine installation. Customization of canned software does not change the underlying character or taxability of the original canned software.

D. "Master copies" of software means copies of software from which a software developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license. The software encoded on a master copy and the media upon which the software resides are both ingredients of the master copy.

E. "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

F. "Software" means any information, program, or routine, or any set of one or more programs, routines, or collections of information, used or intended for use to convey information that causes one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the associated documentation, materials, or ingredients, regardless of the media upon which that documentation is provided, that describes the code and its use, operation, and maintenance and that typically is delivered with the code to the consumer. All software is classified as either canned or custom.

"Taxpayer" means any person as herein defined required to have a registration under this Subtitle 6A or liable for the collection of any tax ~~or fee~~ under this subtitle, or who engages in any business or who performs any act for which a tax ~~or fee~~ is imposed by this subtitle.

"Trauma-related patient care" is care required by a patient who meets the clinical protocols established in accordance with RCW 70.168 and WAC 246-976, as adopted by the Department of Health.

"Tuition fee" includes library, laboratory, health service, and other special fees and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this section, means only those institutions created or generally accredited as such by the state and includes educational programs that such educational institution cosponsors with a nonprofit organization, as defined by the Internal Revenue Code Section 501(c)(3), as hereafter amended, if such educational institution grants college credit for coursework successfully completed through the educational program or an approved branch campus of a foreign degree-granting institution, in compliance with RCW 28B.90 and in accordance with RCW 82.04.4332; or defined as a degree-granting institution under RCW 28B.85.010(3) and accredited by an accrediting association recognized by the United States Secretary of Education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions.

"Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

"Value of products."

A. The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

B. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported, or transferred out of the City or to another person without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

C. Notwithstanding subsection B above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (1) the retail selling price of such new or improved product when first offered for sale; or (2) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

"Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

(Ord. 28106 Ex. A; passed Nov. 27, 2012: Ord. 28008 Ex A; passed Jul. 26, 2011: Ord. 27676 Ex A; passed Dec. 18, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

6A.30.050 Imposition of the tax – Tax ~~or fee~~ levied.

Tax Classification	2012	2011	2010	2009
Buying and Wholesaling Wheat, Oats, Corn, Barley	0.0001	0.0001	0.0001	0.0001
Extracting	0.0011	0.0011	0.0011	0.0011
International Investment Management Services	0.00055	0.0011	0.00165	0.0022
Manufacturing	0.0011	0.0011	0.0011	0.0011
Printing & Publishing Newspaper	0.00153	0.00153	0.00153	0.00153
Public Road Construction	0.0011	0.0011	0.0011	0.0011
Retail Services	0.004	0.004	0.004	0.004
Retailing	0.00153	0.00153	0.00153	0.00153
Service & Other	0.004	0.004	0.004	0.004
Wholesaling	0.00102	0.00102	0.00102	0.00102

Tax Classification	2005 through 2008	2004	2003	2002	2001	2000
Buying and Wholesaling Wheat, Oats, Corn, Barley	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
Extracting	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
International Investment Management Services	0.00275	0.00275	0.00275	0.00275	0.00275	0.00275
Manufacturing	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
Printing & Publishing Newspaper	0.00153	0.00153	0.00153	0.00153	0.00153	0.00153
Public Road Construction	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
Retail Services	0.004	0.004	0.004	0.004	0.004	0.0042
Retailing	0.00153	0.00153	0.00153	0.00153	0.00153	0.00153
Service & Other	0.004	0.004	0.004	0.004	0.004	0.0042

Wholesaling	0.00102	0.00102	0.00102	0.00102	0.00102	0.00102

Tax Classification	**1999**	**1998**	**1997**	**1996**	**1995**	**1994**
Buying and Wholesaling Wheat, Oats, Corn, Barley	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
Extracting	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
International Investment Management Services	0.00275	0.00275	0.00275	0.00275	0.0048	0.0048
Manufacturing	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
Printing & Publishing Newspaper	0.002	0.002	0.002	0.002	0.002	0.002
Public Road Construction	0.0011	0.0011	0.0011	0.0011	0.0011	0.0011
Retail Services	0.0044	0.0046	0.0048	0.0048	0.0048	0.0048
Retailing	0.00153	0.00153	0.00153	0.00153	0.00153	0.00153
Service & Other	0.0044	0.0046	0.0048	0.0048	0.0048	0.0048
Wholesaling	0.00102	0.00102	0.00102	0.00102	0.00102	0.00102

Tax Classification	**1993**	**1992**	**1991**	**1990**	**1989 and prior years**
Buying & Wholesaling Wheat, Oats, Corn, Barley	0.0001	0.0001	0.0001	0.0001	0.0001
Extracting	0.0011	0.0011	0.0011	0.0011	0.0011
International Investment Management Services	0.0048	0.0048	0.005	0.005	0.005
Manufacturing	0.0011	0.0011	0.0011	0.0011	0.0011
Printing & Publishing Newspaper	0.002	0.002	0.002	0.002	0.002
Public Road Construction	0.0011	0.0011	0.0011	0.0011	0.0011
Retail Services	0.0048	0.0048	0.005	0.005	0.005
Retailing	0.00153	0.00153	0.00153	0.00153	0.0015
Service & Other	0.0048	0.0048	0.005	0.005	0.005
Wholesaling	0.00102	0.00102	0.00102	0.00102	0.001

A. Except as provided in Subsection B of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

1. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the City for sale or for commercial or industrial use, multiplied by the rate of eleven one-hundredths of 1 percent (0.0011). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

2. Upon every person engaging within the City in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the City, multiplied by the rate of eleven one-hundredths of 1 percent (0.0011). The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

3. Upon every person engaging within the City in the business of making sales at wholesale, except persons taxable under subsection (6) of this section; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business ~~without regard to the place of delivery of articles, commodities, or merchandise sold,~~ multiplied by the rate of one hundred two one-thousandths of 1 percent (0.00102).

4. Upon every person engaging within the City in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business ~~without regard to the place of delivery of articles, commodities, or merchandise sold,~~ multiplied by the rate of one hundred fifty-three one-thousandths of 1 percent (0.00153), except the activity of public road construction, defined as a sale at retail or retail sale under Section 6A.30.030, the amount of tax shall be equal to the gross proceeds of such activity multiplied by the rate set forth in Section 6A.30.050.A.2.

5. Upon every person engaging within the City in the business of (a) printing, (b) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (c) publishing newspapers, magazines, and periodicals, (d) extracting for hire, and (e) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of one hundred fifty-three one-thousandths of 1 percent (0.00153).

6. Upon every person engaging within the City in the business of buying wheat, oats, corn, barley, and rye, but not including any manufactured or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredths of 1 percent (0.0001).

7. Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of four-tenths of 1 percent (0.004). For years prior to 2002, the rates are as follows: (a) 1998 and years prior thereto would be forty-eight one-hundredths of 1 percent (0.0048); (b) 1999 would be forty-six one-hundredths of 1 percent (0.0046); (c) 2000 would be forty-four one-hundredths of 1 percent (0.0044); and (d) 2001 would be forty-two one-hundredths of 1 percent (0.0042).

8. Upon every person engaging in the business of providing international investment management services within the City; as to such persons, the amount of tax shall be equal to the gross income of the business multiplied by a rate of two hundred seventy-five one-thousandths of 1 percent (0.00275). Commencing January 1, 2009, the City shall decrease the rate from two hundred seventy-five one-thousandths of 1 percent (0.00275) to a rate of twenty-two one-hundredths of 1 percent (.0022). Commencing on January 1, 2010, the City shall decrease this rate to a rate of one hundred sixty-five one-thousandths of 1 percent (.00165). Commencing on January 1, 2011, the City shall decrease this rate to a rate of eleven one-hundredths of 1 percent (.0011). Commencing on January 1, 2012, the City shall decrease this rate to a rate of fifty-five one-thousandths of 1 percent (.00055).

9. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of four-tenths of 1 percent (0.004). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger, or other than by outright sale), persons engaged in the business of developing or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service. For years prior to 2002, the rates are as follows: (a) 1998 and years prior thereto would be forty-eight one-hundredths of 1 percent (0.0048); (b) 1999 would be forty-six one-hundredths of 1 percent (0.0046); (c) 2000 would be forty-four one-hundredths of 1 percent (0.0044); and (d) 2001 would be forty-two one-hundredths of 1 percent (0.0042).

B. Beginning on or after January 1, 2003, the gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is less than $20,000.

(Ord. 28008 Ex. A; passed Jul. 26, 2011: Ord. 27726 Ex. A; passed Jun. 24, 2008: Ord. 27676 Ex. A; passed Dec. 18, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

~~**6A.30.060 Doing business with the City**~~

~~Except where such a tax is otherwise levied and collected by the City from such person, there is hereby levied a tax on the privilege of accepting or executing a contract with the City. Such tax shall be levied and collected whether goods or services are delivered within or without the City and whether or not such person has an office or place of business within or without the City.~~

~~Except, effective January 1, 2008, as provided in 6A.30.077 as to such persons the amount of tax shall be equal to the gross contract price multiplied by the rate under Section 6A.30.050 that would otherwise apply if the sale or service were taxable pursuant to that section.~~

~~(Ord. 28008 Ex. A; passed Jul. 26, 2011: Ord. 27676 Ex. A; passed Dec. 18, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.30.090 Exemptions.

A. Certain fraternal and beneficiary organizations. This chapter shall not apply to fraternal benefit societies or fraternal fire insurance associations as described in Chapter 48 RCW; nor to beneficiary corporations or societies organized under and existing by virtue of Chapter 24 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of death benefits. This exemption is limited, however, to gross income from premiums, fees, assessments, dues, or other charges directly attributable to the insurance or death benefits provided by such societies, associations, or corporations.

B. Credit unions. This chapter shall not apply to the gross income of credit unions organized under the laws of this state, any other state, or the United States.

C. Nonprofit health care organization fees. This chapter shall not apply to amounts derived from medical, nursing, ambulance, hospital, and other appropriate outpatient care as charges and service fees by nonprofit health care organizations for the benefit of subscribers where none of such fees and charges inure to the benefit of the organization or any of its employees, provided further that if a nonprofit health care organization's annual gross income, minus any allowed deductions or exemptions as provided in this chapter, exceeds $30,000,000.00 for any calendar year the deduction shall not apply to the amounts derived from health care organization service fees and charges.

D. Public utilities - Gambling. This chapter shall not apply to the business activity of any person to which tax liability is specifically imposed under the provisions of Chapters 6A.40 (Communications Tax), 6A.50 (Electricity Business and Solid Waste Collection), 6A.60 (Gambling) and 6A.90 (Natural or Manufactured Gas Tax).

E. Investments – dividends from subsidiary corporations. This chapter shall not apply to amounts derived by persons other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

F. International banking facilities. This chapter shall not apply to the gross receipts of an international banking facility. As used in this subsection, an “international banking facility” means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631, or an Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604(a), that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the Board of Governors of the Federal Reserve System), and international banking facility extensions of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D).

G. Insurance business. This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020; and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

H. Farmers – agriculture. This chapter shall not apply to any farmer with respect to amounts received from selling fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any other agricultural product that is raised, caught, produced, or manufactured by such persons.

I. Athletic exhibitions. This chapter shall not apply to any person with respect to the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the Washington State Boxing Commission.

J. Racing. This chapter shall not apply to any person with respect to the business of conducting race meets for the conduct of which a license must be secured from the Washington State Horse Racing Commission.

K. Ride sharing. This chapter does not apply to any funds received in the course of commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010.

L. Employees.

1. This chapter shall not apply to any person with respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.

2. A booth renter is an independent contractor for purposes of this chapter.

M. Amounts derived from sale of real estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from or relating to real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate, if the rental income is derived from a contract to rent for a continuous period of 30 days or longer.

N. Mortgage brokers' third-party provider services trust accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

O. Amounts derived from manufacturing, selling, or distributing motor vehicle fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440, provided that any fuel not subject to the state fuel excise tax or any other applicable deduction or exemption will be taxable under this chapter.

P. Amounts derived from liquor, and the sale or distribution of liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

Q. Accommodation sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article, and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within 14 days to reimburse in-kind a previous accommodation sale by the buyer to the seller.

R. Casual and isolated sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

S. Taxes collected as trust funds. This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

T. The gross income received by the United States or any instrumentality thereof and by the state of Washington or any municipal subdivision thereof; provided, however, that the exemption contained in this subsection shall only apply to gross income which the City is prohibited from taxing pursuant to the terms of any federal or state law.

U. Any person with respect to a business activity conducted in an area that, after the date hereof, has become part of the City by annexation; provided, however, that the business premises of such person be located in the said area on the date of annexation; and provided, further, that the exemption provided herein shall cease at the end of the calendar quarter three years after the date of such annexation.

V. Those persons whose gross proceeds of sales or gross income of the business both from within and outside the City for the entire calendar year do not exceed a minimum threshold of $50,000 through December 31, 1998; $55,000 from January 1 through December 31, 1999; $60,000 from January 1, 2000, through December 31, 2000;

$65,000 from January 1, 2001, through December 31, 2001; $70,000 from January 1, 2002 through December 31, 2008, $72,500 from January 1, 2009 through December 31, 2009, $75,000 from January 1, 2010 through December 31, 2010 and $250,000 from January 1, 2011, and thereafter shall be exempt from the tax imposed under this Subtitle 6A and will not be required to submit a tax return; provided, however, that said persons shall still be obligated to obtain a registration certificate.

Tax Period Year	Gross Income Threshold
1998 and prior years	$50,000
1999	$55,000
2000	$60,000
2001	$65,000
2002 through 2008	$70,000
2009	$72,500
2010	$75,000
2011 and beyond	$250,000

W. Amounts received from the sale of licenses to use grave sites and related finance charges by persons owning or operating cemeteries located within the City; provided, however, that this exemption shall not apply to amounts derived from the sale of licenses to use crypts or cremation niches located in mausoleums.

(Ord. 28268 Ex. B; passed Dec. 9, 2014: Ord. 28208 Ex. A; passed Mar. 18, 2014: Ord. 28107 Ex. A; passed Nov. 27, 2012: Ord. 28052 Ex. A; passed Feb. 21, 2012: Ord. 28008 Ex. A; passed Jul. 26, 2011: Ord. 27958 Ex. A; passed Nov. 30, 2010: Ord. 27763 Ex. A; passed Dec. 9, 2008: Ord. 27676 Ex. A; passed Dec. 18, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

6A.30.100 Deductions.

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

A. Receipts from tangible personal property delivered outside the state. In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer’s representative at a location outside the state of Washington.

B. Amounts derived from program and service fees, government grants and/or contract receipts, and private foundation grants by any organization organized and operated for charitable, educational, or other purposes which is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; provided, however, that amounts derived from selling, altering, or repairing tangible personal property shall not be considered a deductible item; and provided further that if a nonprofit organization's annual gross income, minus any allowed deductions or exemptions as provided in this chapter, exceeds $30,000,000.00 for any calendar year the deduction shall not apply to the amounts derived from the provision of "health care services" as defined by RCW 48.44.010.

C. Fees, dues, charges. In computing tax, there may be deducted from the measure of tax amounts derived from bona fide:

1. Initiation fees;

2. Dues;

3. Contributions;

4. Donations;

5. Tuition fees;

6. Charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public;

7. Charges made for operation of privately operated kindergartens; and

8. Endowment funds.

This subsection shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction under this subsection.

D. Interest on investments or loans secured by mortgages or deeds of trust. In computing tax, there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

E. Interest on obligations of the state, its political subdivisions, and municipal corporations. In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses amounts derived from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof.

F. Cash discount taken by purchaser. In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for purposes of this tax, have been computed according to the "value of product" provisions.

G. Credit losses of accrual basis taxpayers. In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

H. Sales at wholesale or retail of precious metal bullion and monetized bullion. In computing tax, there may be deducted from the measure of the tax amounts derived from the sale at wholesale or retail of precious metal bullion and monetized bullion. However, no deduction is allowed on amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, and no deduction or offset is allowed against such commissions on account of salaries or commissions paid to salespersons or other employees.

I. Amounts representing rental of real estate for ~~boarding homes~~assisted living facilities. In computing tax, there may be deducted from the measure of tax amounts representing the value of the rental of real estate for "~~boarding homes~~assisted living facilities." To qualify for the deduction, the ~~boarding home~~facility must meet the definition in RCW 18.20 for ~~of~~ "~~boarding home~~assisted living facility" and be licensed by the state of Washington ~~under~~ as required in RCW 18.20. The deduction shall be in the amount of 26 percent of the gross monthly billing when the ~~boarder~~resident has resided within the ~~boarding home~~facility for longer than 30 days.

J. Radio and television broadcasting – Advertising agency fees – National, regional, and network advertising – Interstate allocations. In computing tax, there may be deducted from the measure of tax by radio and television broadcasters amounts representing the following:

1. Advertising agencies' fees when such fees or allowances are shown as a discount or price reduction in the billing or that the billing is on a net basis (i.e., less the discount);

2. Actual gross receipts from national network and regional advertising, or a "standard deduction" as provided by RCW 82.04.280; and

3. Local advertising revenue that represent advertising which is intended to reach potential customers of the advertiser who are located outside the state of Washington. The Director may issue a rule that provides detailed guidance as to how these deductions are to be calculated.

K. Constitutional prohibitions. In computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Washington State Constitution or the Constitution of the United States.

L. Receipts From the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington. For tax reporting periods beginning on or after January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

M. Professional employer services. In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

N. For tax reporting periods beginning on or after January 1, 2013 gross income as defined as investment management services and subject to tax under investment management services.

O. Compensation from Public Entities for Health or Social Welfare Services. In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the State of Washington or any municipal corporation or political subdivision thereof as to compensation for, or to support, health or social welfare services rendered by a health or social welfare organization (as defined in RCW 82.04.431) or by a municipal corporation or political subdivision, except deductions are not allowed under this section for amounts that are received under an employee benefit plan. For purposes of this subsection, “employee benefit plan” includes the military benefits program authorized in 10 U.S.C. Sec. 1071 et seq., as amended, or amounts payable pursuant thereto.

(Ord. 28107 Ex. A; passed Nov. 27, 2012: Ord. 28106 Ex. A; passed Nov. 27, 2012: Ord. 28052 Ex. A; passed Feb. 21, 2012: Ord. 27726 Ex. B; passed Jun. 24, 2008: Ord. 27676 Ex. A; passed Dec. 18, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

6A.30.120 Tax part of overhead.

It is not the intention of this chapter that the taxes ~~or fees~~ herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes ~~or fees~~ shall be levied upon and collectible from the person engaging in the business activities herein designated**,** and that such taxes ~~or fees~~ shall constitute a part of the cost of doing business of such persons.

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6A.40

COMMUNICATIONS TAX

Sections:

~~6A.40.010 Administrative provisions.~~

~~The administrative provisions contained in Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6A.40.020 Exercise of revenue license power.~~

~~The provisions of this chapter shall be deemed an exercise of the power of the City to license and/or tax for revenue the privilege of engaging in business in the City. For the purposes of this chapter, the terms "license" and "tax" shall be synonymous.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.40.030 Definitions.

In construing the provisions of this chapter, unless otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

"Cable service" means the business of transmitting voice, video, or data signals, either one-way or two-way.

"Cellular telephone service" is a two-way voice or data telephone/telecommunications system based in whole, or substantially in part, on wireless radio communications, and which is not subject to regulation by the Washington Utilities and Transportation Commission ("WUTC"). This includes cellular mobile service. The definition of "cellular mobile service" includes other wireless radio communications services such as specialized mobile radio ("SMR"), personal communications services ("PCS"), and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service.

"Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus or service related to that equipment or apparatus, such as a repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons who are not subject to regulation as telephone companies under RCW 80, and for which a separate charge is made.

"Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of the investment of capital in the business engaged in, including rentals, royalties, fees, or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses.

"Network telephone service" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone service, or providing of telephonic, video, voice, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or

similar communication or transmission system. Network telephone service includes the provision of electronic transmitting to and from the site of an internet service provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmitting system, without regard to whether such service is referred to as voice over internet protocol services. It also encompasses interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state if the charge for the service is billed to a person in this state. Network telephone service does not include the providing of competitive telephone service, the providing of cable television service, or the providing of broadcast services by radio or television stations, nor the provision of internet service as defined in RCW 82.04.297, including the reception of dial-in connection provided at the site of the internet service provider.

"Pager service" means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network via satellite or any other form of voice or data transmission.

"Place of primary use" means the residential street address or the primary business street address of the customer and in both cases must be located within the licensed service area of the home service provider. ~~Roaming charges and cellular telephone charges to customers whose place of primary use is outside of the City will not be taxable even though those mobile services are provided within the City.~~

"Telephone business" means the business of providing network telephone service as defined in this section. It includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business shall include 100 percent of the toll service fees from calls originating and/or billed to subscribers within the City.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.40.040 Persons subject to tax.

A ~~fee or~~ tax as specified herein is hereby levied upon and shall be collected from every person engaging in or carrying on the following business:

Cable service – A ~~fee or~~ tax equal to 8 percent of the gross income from cable service provided to customers ~~residing~~ within the City.

Cellular telephone and/or pager services business – A ~~fee or~~ tax equal to 7.5 percent of the total gross income from cellular telephone or pager services business provided to customers ~~conducted~~ whose place of primary use is within the City, ~~, as indicated by billings and/or charges to Tacoma customers~~.

Competitive telephone service – Competitive telephone service, as hereinabove defined, shall be taxed as a retail sale under TMC 6A.30.

Telephone business – A ~~fee or~~ tax equal to 7.5 percent of the total gross income from telephone business provided to customers ~~conducted~~ within the City, ~~, as indicated by billings and/or charges to Tacoma customers.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.40.060 Method of payment.

The license ~~fee or~~ tax imposed by this chapter shall be due and payable in monthly installments. Persons~~Businesses~~ with gross income of less than $20,000 per month, ~~as indicated by billings or charges to Tacoma customers,~~ may pay the ~~license fee or~~ tax imposed by this chapter in quarterly installments.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.40.080 Allocation of income – Cellular telephone service.

~~A. A. Service address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions~~Gross income from cellular telephone service means that income from ~~provided to~~ customers whose ~~to the~~ "place of primary use" ~~location of the customer's principal service address~~ is in the City, ~~during the period for which the tax applies~~regardless of the location of the facilities used to provide the service.

~~"place of primary use" means: the residential street address or the primary business street address of the customer and in both cases must be located within the licensed service area of the home service provider. Roaming charges~~

~~and cellular telephone charges to customers whose place of primary use is outside of the City will not be taxable even though those mobile services are provided within the City. .~~

B. Presumption. There is a presumption ~~that the service~~that the "place of primary use~~ address~~" address shown on ~~a customer supplies to~~ the taxpayer records is current and accurate, unless the taxpayer has actual knowledge to the contrary.

C. Roaming charges.~~phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call or to the location of the main cellular switching office that switched the call.~~ Roaming charges and cellular telephone charges are assigned to the customer's place of primary use. ~~to customers whose place of primary use is outside of the City will not be taxable even though those mobile services are provided within the City.~~

~~D. Dispute resolution. If there is a dispute between or among the City and another city or cities as to the service address of a customer who is receiving cellular telephone services, and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the City and the other city or cities by submitting the issue for settlement to the Association of Washington Cities ("AWC"). Once taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties, or interest on the disputed revenues so long as it promptly changes its billing records for future revenues to comport with the settlement facilitated by AWC.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

~~6A.40.090 Exemptions.~~

~~Those taxpayers reporting gross income and paying tax under this chapter shall be exempt from the tax authorized under TMC 6A.30.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.40.100 Overpayment of tax.

If, upon application by a taxpayer for a refund or for an audit of his or her records or upon an examination of the returns or records of any taxpayer, it is determined by the Director that within 2 years immediately preceding the receipt by the Director of the application by the taxpayer for a refund or for an audit, or, in the absence of such an application, within the 2 years immediately preceding the commencement by the Director of such examination, a tax has been paid in excess of that properly due, the excess amount paid within such period of 2 years shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at his or her option. No refund or credit shall be allowed with respect to any payment made to the Director more than 2 years before the date of such application or examination. Where a refund or credit may not be made because of the lapse of said 2-year period, the amount of the refund or credit which would otherwise be allowable for the portion of the statutory assessment period preceding the 2-year period may be offset against the amount of any tax deficiency which may be determined by the Director for such preceding period. ~~Interest upon any such refund or credit shall be allowed by the Director at the rate of 3 percent per annum.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6A.50

ELECTRICITY BUSINESS AND SOLID WASTE COLLECTION

Sections:

~~6A.50.010 Administrative provisions.~~

~~The administrative provisions contained in Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6A.50.020 Exercise of revenue license power.~~

~~The provisions of this chapter shall be deemed an exercise of the power of the City to license and/or tax for revenue the privilege of engaging in business in the City. For the purposes of this chapter, the terms "license" and "tax" shall be synonymous.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.50.030 Persons subject to tax – Rate.

There is hereby levied upon and shall be collected from every person engaging in or carrying on the (1) electricity business, a tax equal to 7.5 percent of the total gross income from such business conducted within the City, ~~as indicated by billings and/or charges to or for Tacoma customers,~~ and on those persons engaged in or carrying on the (2) solid waste collection service, a tax equal to 8 percent of the total gross income from such business conducted within the City~~, as indicated by billing and/or charges to or for Tacoma customers.~~

Activity	Tax Rate
Electricity Business	7.5%
Solid Waste Service	8%

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.50.050 Method of payment.

The ~~license fee or~~ tax imposed by this chapter shall be due and payable in monthly installments. Businesses with gross income of less than $20,000 per month, as indicated by billings and/or charges to or for service to City customers, may pay the ~~license fee or~~ tax imposed by this chapter in quarterly installments.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.50.060 Deductions.

A. There may be deducted from the total gross income upon which the ~~license fee or~~ tax is computed revenues derived from business which the City is prohibited from taxing under the constitution or laws of the state of Washington or the United States or the Charter of the City.

B. There may be deducted from the total gross income upon which the ~~license fee or~~ tax is computed the amount of state excise taxes, pursuant to RCW 82.18, imposed directly upon persons using the service of a solid waste collection business and collected for payment to the state by the solid waste collection business.

C. There may be deducted from the total gross income upon which the ~~license fee or~~ tax is computed, the amount of wholesale sales of electricity to Tacoma Power.

D. There may be deducted from the total gross income upon which the ~~license fee or~~ tax is imposed under Section 6A.50.030 revenues derived from providing the service of collecting recyclable materials, as follows:

1. Commercial recycling: revenues derived from the service of collecting commercial recyclable materials. This exemption is limited to materials actually resold and computed in proportion to weight, as follows:

a. Any weight added by processing or treatment after collection is subtracted from the weight as sold to obtain the allowable weight as sold; and

b. Revenues are multiplied by a fraction, the numerator of which is the allowable weight as sold and the denominator of which is the weight as collected.

2. This deduction does not apply to any energy-recovery or fuel-use process, nor in any case where materials collected have not been sold for commercial reuse within 100 days from the date of collection. This period may be extended when a taxpayer shows to the Department's satisfaction that market conditions necessitate a longer period for sale.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.50.070 Overpayment of tax.

If, upon application by a taxpayer for a refund or for an audit of his or her records or upon an examination of the returns or records of any taxpayer, it is determined by the Director that within 2 years immediately preceding the receipt by the Director of the application by the taxpayer for a refund or for any audit, or, in the absence of such an application, within the 2 years immediately preceding the commencement by the Director of such examination, a tax has been paid in excess of that properly due, the excess amount paid within such period of 2 years shall be credited to the taxpayer's account or shall be refunded to the taxpayer at his or her option. No refund or credit shall be allowed with respect to any payment made to the Director more than 2 years before the date of such application or examination. Where a refund or credit may not be made because of the lapse of said 2-year period, the amount of the refund or credit which would otherwise be allowable for the portion of the statutory assessment period preceding the 2-year period may be offset against the amount of any tax deficiency which may be determined by the Director for such preceding period. ~~Interest upon any such refund or credit shall be allowed by the Director at the rate of 3 percent per annum.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6A.60

GAMBLING TAX

Sections:

~~6A.60.010 Administrative provisions.~~

~~The administrative provisions of Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6A.60.020 Exercise of revenue license power.~~

~~The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue and to tax certain gambling activities pursuant to RCW 9.46, as now or hereafter amended.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.60.030 Definitions.

For purposes of this chapter, the following definitions shall be applied:

"Amusement game" means a game played for entertainment in which the contestant actively participates, the outcome depends in a material degree upon the skill of the contestant or which meets the requirements of RCW 9.46.0201, as now or hereafter amended.

"Bingo" means a game in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random or which meets the requirements of RCW 9.46.0205, as now or hereafter amended.

"Bona fide charitable or nonprofit organization" shall have the meaning set forth in RCW 9.46.0209, as now or hereafter amended.

"Pull-tabs" means a game in which the participant, on payment of a nominal sum, receives a paper tab from a dispenser which is pulled apart to reveal a designated prize or meets the requirements of RCW 9.46.0273, as now or hereafter amended.

"Punchboard" means a board with many holes filled with rolled-up printed slips to be punched out on payment of a nominal sum in an effort to obtain a slip that entitles the player to a designated prize or meets the requirements of RCW 9.46.0273, as now or hereafter amended.

"Raffle" means a game in which tickets bearing an individual number are sold for not more than $25 each and in which a prize or prizes are awarded on the basis of a drawing from the tickets sold or which meets the requirements of RCW 9.46.0277, as now or hereafter amended.

"Social card game" means a game that may include a house-banked or a player-funded banked card game or meets the requirements of RCW 9.46.0282, as now or hereafter amended.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.60.050 Notification required.

Any person engaging in or carrying on any gambling activities within the City, including, but not limited to bingo games, raffles, amusement games, social card games, punchboard, or pull-tab activities shall, not less than ten calendar days prior to the commencement of any such activity or activities, file with the Department notification of its intent to conduct such activity or activities. Said notification shall indicate the date, time, and place where such activities will be conducted. ~~and, not less than five days after the termination of said activities, or within 30 days after the termination of each single daily session, said person shall report to the Department, in such form as shall be required, all necessary information concerning the gross income realized from the conduct of said activity or activities, together with all necessary information to verify any claimed deductions or exemptions hereunder.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.60.080 Method of payment.

The ~~license fee or~~ tax imposed by this chapter shall be due and payable in monthly or quarterly installments on forms approved by the Director and include when requested by the Director all necessary information concerning gross income, deductions and exemptions related to such activities.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.60.090 Deductions.

In computing the tax imposed by this chapter, the following items may be deducted from the gross income otherwise subject to the tax:

A. Amounts paid out for prizes or as prizes for amusement games, bingo games and raffles, whether cash or merchandise.~~, for amusement games, bingo games, and raffles may be deducted from the gross income generated from those activities~~.

(Ord. 27573 § 2; passed Jan. 9, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

6A.60.100 Exemptions.

~~A.~~ Any bona fide charitable or nonprofit organization, including but not limited to churches, elementary or secondary public schools, or parent-teacher organizations conducting or operating gambling activities whose gross income from such activities shall be exempt from ~~the tax imposed under Section 6A.60.060~~this chapter.

~~B. Any church, elementary or secondary public school, parent-teacher organization, or nonprofit hospital holding or sponsoring a bazaar or carnival not more than once each calendar year wherein bingo, raffles, or amusement games are conducted, and such organization would not otherwise fall under the exemptions in subsection A above and shall otherwise be exempt from any further tax under this chapter.~~

(Ord. 27573 § 3; passed Jan. 9, 2007: Ord. 27297 § 1; passed Nov. 23, 2004)

6A.60.105 Social card games prohibited.

The operation of or conduct of social card games is prohibited within the City of Tacoma.

~~6A.60.110 Lien.~~

~~Taxes imposed under this chapter become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

Chapter 6A.90

NATURAL OR MANUFACTURED GAS TAX

Sections:

~~6A.90.010 Administrative provisions.~~

~~The administrative provisions of Chapter 6A.10 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6A.90.050 Exemptions and deductions.

In computing tax imposed by this chapter, the following items may be deducted from the gross income. Income excluded or deducted from the measure of tax under this chapter as a result of this section may be taxable under another chapter within Subtitle 6A, as appropriate.

A. ~~There shall be exempted from the total g~~Gross income ~~upon which the license fee or tax is computed so much thereof as is derived from business~~ which the City is prohibited from taxing under the constitution or laws of the state of Washington or the United States or the City Charter

B. ~~, and a~~Any retail sales or use taxes collected by the taxpayer from consumers to be remitted to the Washington State Department of Revenue.

C. ~~There shall also be deducted from gross income subject to tax under this chapter i~~Income derived from the activities of selling tangible personal property or providing services of a type that can be sold or provided by persons not in the business of transmitting, distributing, or selling natural gas for which a separate charge is made; provided, that income derived from activity incidental to transmitting, distributing, or selling natural gas may not be deducted from gross income subject to the tax under this chapter. ~~Income excluded or deducted from the measure of tax under this chapter as a result of this section may be taxable under another chapter within Subtitle 6A, as appropriate.~~

"Activity incidental to the transmission, distribution, or sale of natural gas" involves service performed in connection with the transmission, distribution, or sale of natural gas for an existing natural gas customer. Incidental service charges include charges such as line extensions, testing, replacing meters, line repairs, line raisings, and meter reading fees, as well as charges for interest or penalties. Incidental activities do not include the sale of appliances.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.90.060 Monthly payment of tax.

The ~~license fee or~~ tax required by this chapter is based upon gross income and the taxpayer shall file and pay his or her ~~fee or~~ tax monthly.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6A.90.070 Overpayment of tax.

If, upon application by a taxpayer for a refund or for an audit of his or her records or upon an examination of the returns or records of any taxpayer, it is determined by the Director that within 2 years immediately preceding the receipt by the Director of the application by the taxpayer for a refund or for an audit, or, in the absence of such an application, within the 2 years immediately preceding the commencement by the Director of such examination, a tax

has been paid in excess of that properly due, the excess amount paid within such period of 2 years shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at his or her option. No refund or credit shall be allowed with respect to any payment made to the Director more than 2 years before the date of such application or examination. Where a refund or credit may not be made because of the lapse of said 2-year period, the amount of the refund or credit which would otherwise be allowable for the portion of the statutory assessment period preceding the 2-year period may be offset against the amount of any tax deficiency which may be determined by the Director for such preceding period. ~~Interest upon any such refund or credit shall be allowed by the Director at the rate of 3 percent per annum.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.30

ADULT ENTERTAINMENT

Sections:

6B.30.010 Definitions.

For the purpose of this chapter, the words and phrases used in this section shall have the following meanings, unless context indicates otherwise:

"Adult entertainment" shall mean any of the following:

1. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation, or relation to the following specified sexual activities:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse, or sodomy;

c. Fondling or other erotic touching of human genitals, pubic area, buttocks, or female breast.

"Adult entertainment establishment" shall mean any commercial premises or club to which any patron is invited or admitted and where adult entertainment is provided on a regular basis or is provided as a substantial part of the premises activity. ~~and shall further mean and include "adult motel."~~

~~"Adult motel" shall mean a hotel, motel, or similar establishment that offers a sleeping room for rent for a period of time less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.~~

"Applicant" shall mean the individual or entity seeking an adult entertainment business.

"Applicant control persons" shall mean all partners, corporate officers, and directors, and any other individuals in the applicant's business organization who hold a significant interest in the adult entertainment establishment, based on responsibility for management of the adult entertainment business.

"Employee" shall mean any and all persons, including managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of any adult entertainment establishment.

"Entertainer" shall mean any person who provides live adult entertainment, whether or not a fee is charged or accepted for such entertainment.

"Finance Department" shall mean the City of Tacoma Finance Department, Tax and License Division.

"Manager" shall mean any person who manages, directs, administers, or is in charge of the affairs and/or the conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment establishment.

"Operator" shall mean any person operating, conducting, or maintaining an adult entertainment establishment.

"Picture machine" shall mean any machine, instrument, or device showing moving pictures, slides, plain, colored or three-dimensional pictures, or any picture device of a similar nature depicting sexual conduct or specified anatomical areas, the operation of which is made possible by the insertion or placing of any coin, plate, disc, or slug into the slot or other receptacle, or by the payment of any consideration to another for such purpose.

"Sexual conduct" shall mean acts of (1) sexual intercourse within its ordinary meaning; (2) any contact between persons involving the sex organs of one person and the mouth or anus of another; (3) masturbation, manual or instrumental, of oneself, or of one person by another; or (4) touching of the sex organs or anus of oneself, or of one person by another.

"Specified anatomical areas" shall mean and include any of the following:

1. Human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolas; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. 27343 § 1; passed Mar. 29, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.30.050 Licenses ~~pertaining to~~for picture machine locations required – Fees.

It shall be unlawful for any person to display, exhibit or permit to be displayed or exhibited or exposed ~~maintain, operate, or permit to be operated any picture machine~~ in any restaurant, bar, tavern, or any other public ~~place~~location~~, or to rent or lease such machines~~ in the City any picture machine without first obtaining a license:~~, as follows:~~

~~Type of~~ License	Annual Fee
~~Picture Machine~~	~~$40~~
~~Picture Machine Operator~~	~~$400~~
Picture Machine Location	$~~1~~300

~~A. Picture machine license. Each picture machine shall have a serial number stamped thereon to identify the same, and the license shall be issued for a particular picture machine only, shall be placed conspicuously on the machine, and shall remain on the machine at all times during the license period. Such license shall not be transferable from one machine to another.~~

~~B. Picture machine operator's license. It shall be unlawful for any person to operate the business of renting, leasing, or placing picture machines without first obtaining an Operator's License from the Finance Department. An operator's license will be granted only to a person who is a citizen of the United States, of good moral character, and who, in the judgment of the Director, is a fit and proper person to be granted such license.~~

~~C. Picture machine location license. A location license shall be required for each place of business in which a picture machine is displayed, exhibited, or permitted to be displayed or exhibited or exposed for use by the public.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.30.060 Due date for license fees.

A. The license fees for establishments required by this chapter are due and payable to the Finance Department at least two weeks before the opening of the adult entertainment establishment.

B. The license fees for managers, entertainers, and picture machines required by this chapter are due and payable to the Finance Department before the beginning of such entertainment, or beginning employment, or first use of the picture machine, as applicable.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.30.170 Suspension or revocation.

A. In addition to the grounds for suspension or revocation set out in Section 6B.10.140, the Department may suspend or revoke any license issued under this chapter if the licensee is convicted of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of the licensee's servants, agents, or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the licensed premises when the licensee knew or should have known of the violations committed by the licensee's servants, agents, or employees.

B. Where the Department of Public Works, Fire Chief, or the Tacoma-Pierce County Health Department find that any condition exists upon the premises of an adult entertainment establishment which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter, pending a hearing in accordance with Section 6B.10.140. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee and the Finance Department of the right to appeal the suspension to the Hearing Examiner under the same appeal provision set forth in Section 6B.10.140; provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.40
ALARM DEVICES

Sections:

~~6B.40.020 Exercise of regulatory police power and revenue license power.~~

~~A. The provisions of this chapter shall be deemed an exercise of the City's police power to promote the health, safety, and welfare of the general public, and are not intended to protect individuals or create or otherwise establish or designate any particular class or group of persons who will or should be especially affected by the terms of this chapter. This chapter neither imposes nor creates duties on the part of the City or any of its departments, and the obligation of complying with the requirements of this chapter, and any liability for failing to do so, is placed solely upon the parties responsible for owning, operating, monitoring, or maintaining monitored alarm systems.~~

~~B. To the extent that the City may not exercise regulatory power with respect to the licensing requirements of this chapter, the provisions of this chapter pertaining to licensing shall be deemed an exercise of the power of the City to license for revenue the privilege of engaging in business in the City.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6B.40.030 Licenses required.

A. ~~A. It shall be unlawful for any person to connect to a monitored alarm system in the City or to monitor such an alarm system, directly or indirectly, via telephone, cable, wire, wireless, video, electronic, or other form of connection to or by any outside entity or source without first having obtained a license or licenses required by this chapter.~~Monitored Alarm Device

Monitored alarm device licenses shall be required for any alarm system operator renting, leasing, installing, placing, subscribing, contracting, subcontracting, or otherwise arranging to monitor an alarm device within the City limits. Each monitored alarm device license shall be issued for a particular device and shall not be transferable from one monitored alarm device to another; from one person to another; or from one premise, building, dwelling, or residence to another.

B. Transfer of monitored alarm device to another alarm system operator.

If an alarm system operator or system subscriber transfers, assigns, or subcontracts monitoring services for a validly licensed alarm device to another alarm system operator, the existing valid monitored alarm device license shall remain in full force and effect for the remainder of the calendar year in which it was issued. An alarm system operator who assumes responsibility for monitoring an alarm device that has already been licensed for that year must report all such transfers in its annual report on a form required by the Director. The transfer information shall include, at a minimum, the name of the alarm system operator under which the device was previously licensed, the

name of the alarm system operator assuming responsibility for the alarm, the address where the device is installed, and the name of the system subscriber.

C~~B~~. Alarm System Operator

An alarm system operator license shall be required for any person to be or become or operate or provide an alarm monitoring service within the jurisdictional limits of the City. This includes any person who monitors alarm devices installed in the jurisdictional limits of the City even if such monitoring is conducted from a location outside the City limits. Such license shall be valid for the calendar year in which it is issued and is not transferable.

~~B. It shall be unlawful for any person to permit to be used or operate any monitored alarm system in the City that is connected by means of telephone, cable, wire, wireless, video, electronic, or other form of connection to any outside entity or source that is not licensed or is not monitored by a person licensed pursuant to this chapter.~~

~~C. The licenses required pursuant to this chapter are separate from and in addition to any licenses required by any other chapter of the TMC including, but not limited to, those required pursuant to Chapter 6A.10, General Tax Provisions; Chapter 6B.10, General License Provisions; and Chapter 6B.20, Annual Business License.~~

~~D. It shall be unlawful for any person to avoid any of the licensing requirements of this chapter by subcontracting for monitoring services or making any other contractual or business arrangement that has the effect of avoiding the requirements of this chapter.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.040 Definitions.

~~Unless the context or subject matter otherwise requires, t~~Terms defined herein shall have the following meanings when used in this chapter:

"Alarm system" or "alarm device" means any system, device, or mechanism which, when activated, transmits a telephonic, wireless, electronic, video, or other form of message or communication to an alarm system monitoring company or some other number, or emits an audible or visible signal that can be heard or seen by persons outside the protected premises, or transmits a signal beyond the premises in some other fashion, except any system, device, or mechanism primarily protecting a motor vehicle. An alarm system or alarm device may consist of one or more components (e.g. motion detector, window breach detector, or similar components) all reporting to a central unit/system panel which, in turn, is connected to or reports to an alarm system monitoring company via telephonic, wireless, electronic, video, or other form of message. All alarm systems are included within the definition of "alarm system"; e.g. any burglary, intrusion, panic, premises, property, robbery, or other type of alarm device.

"Alarm system monitoring company" or "alarm system operator" means any person, individual, partnership, corporation, or other form of association that engages in the business of ~~monitoring intrusion, property, burglary, robbery, panic alarms, or other~~an alarm system~~s~~ located in the City. This includes alarm system monitoring companies and alarm system operators that are located outside the City limits and which monitor alarms installed within the City limits.

~~"Alarm system user" means the person having or maintaining a property, intrusion, burglary, robbery, panic, or other alarm system. It means only a subscriber when the system is connected to an alarm system monitoring company.~~

~~"Burglary alarm system" has the same meaning as "property alarm" below.~~

~~"Chief of Police" means the Chief of the Tacoma Police Department, or his or her designee.~~

~~-~~"False alarm" means the reporting of the activation of any monitored alarm system where police units dispatched to the location determine that there is no evidence of a crime or other activity on the premises that would warrant a call for immediate police assistance or investigation. An alarm shall be presumed to be false if responding City personnel do not locate evidence of intrusion, commission of an unlawful act, or emergency on the premises that might have caused the alarm to sound. If earthquakes, hurricanes, tornadoes, or other acts of God set off a large number of alarms, a police supervisor may determine that no responses will be made to such alarms during the pendency of such event. ~~No false alarm fees will be assessed during the time period for which no response is made as determined by the police supervisor.~~

"Fire alarm" means a signal initiated by a device such as a manual fire alarm box, automatic fire detector, waterflow switch, smoke detector, or other device which, when activated, is indicative of the presence of a fire or fire signature. All fire alarms shall be exempt from the provisions of this chapter.

"Monitored alarm system" means any system, device, or mechanism which, when activated, transmits a telephonic, wireless, electronic, video, or other form of message or communication to a private monitoring company, other number, or person who can then notify police that an alarm has been activated. This includes all systems which transmit telephonic, wireless, electronic, video, or other form of message or communication from an alarm installed within the City limits to any location outside the City ~~(e.g., an alarm monitoring center located in a state other than Washington)~~. All alarms that are monitored, except fire alarms, are included within the definition of "monitored alarm system"; e.g., any monitored burglary, intrusion, panic, premises, property, robbery, or other type of alarm device.

~~"Panic alarm" has the same meaning as "robbery alarm" below.~~

~~"Permittee" means any person required to be licensed under this chapter.~~

~~"Police Department" or "police" means the Tacoma Police Department.~~

"Premises" means any area and any portion of any area protected by an alarm system.

~~"Property alarm," "intrusion alarm," or "burglary alarm" means any system, device, or mechanism for detection and reporting of any unauthorized entry or attempted entry or property damage upon real property protected by the system which may be activated by sensors or other techniques and, when activated, transmits a telephonic, wireless, electronic, video, or other form of message, or emits an audible or visible signal that can be heard or seen by persons outside the protected premises, or transmits a signal beyond the protected premises.~~

~~"Residence" means a building or structure, or portion thereof, designed to be used as a place of abode for human beings and which is not used for any other primary purpose. The term includes all dwelling units within the definition of a "residential use."~~

~~"Robbery alarm" or "panic alarm" means any system, device, or mechanism activated by an individual on or near the premises to alert others that a robbery or any other crime is in progress, or that the user is in need of immediate assistance or aid in order to avoid injury or serious bodily harm, which meets the following criteria:~~

~~1. The system is installed on real property (the "protected premises");~~

~~2. It is designed to be activated by an individual for the purpose of summoning assistance to the premises;~~

~~3. It transmits a telephonic, wireless, electronic, video, or other form of message or emits an audible, visible, or electronic signal that can be heard, seen, or received by persons outside the protected premises; and~~

~~4. It is intended to summon police assistance to the premises.~~

"System subscriber" means any person, corporation, or other business entity that purchased, contracted for, or has had any alarm system installed in or on premises owned or controlled by them.

(Ord. 27297 § 1; passed Nov. 23, 2004)

~~6B.40.050 Alarm system operator (monitoring company) license.~~

~~An alarm system operator license shall be required for any person to be or become or operate or provide an alarm monitoring service within the jurisdictional limits of the City. This includes any person who monitors alarm devices installed in the jurisdictional limits of the City even if such monitoring is conducted from a location outside the City limits (e.g., an alarm monitoring center in another state). Such license shall be valid for the calendar year in which it is issued and is not transferable.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6B.40.060 Monitored alarm device license.~~

~~A. Monitored alarm device licenses shall be required for any alarm system operator renting, leasing, installing, placing, subscribing, contracting, subcontracting, or otherwise arranging to monitor an alarm device within the City limits. Each monitored alarm device license shall be issued for a particular device and shall not be transferable from one monitored alarm device to another; from one person to another; or from one premise, building, dwelling, or~~

~~residence to another. A monitored alarm device license is valid only for the calendar year in which it is issued. If an alarm system operator or subscriber transfers, assigns, or subcontracts monitoring services for a validly licensed alarm device to another alarm system operator, the existing valid license shall remain in full force and effect for the remainder of the calendar year in which it was issued. An alarm system operator who assumes responsibility for monitoring an alarm device that has already been licensed for that year must report all such transfers in its quarterly report. The alarm system operator shall provide the transfer information in the form required by the Director (e.g., Excel spreadsheet). The transfer information shall include, at a minimum, the name of the alarm system operator under which the device was previously licensed, the name of the alarm system operator assuming responsibility for the alarm, the address where the device is installed, and the name of the subscriber.~~

~~B. Alarm system operators shall update quarterly, in the form required by the Director (e.g., Excel spreadsheet), a list of all alarm devices monitored by them within the jurisdictional limits of the City. Such list shall include the information required by the Director which, at a minimum, shall include the address where the alarm is installed, the name of the subscriber, the type of alarm, and the number of alarm devices.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

~~6B.40.070 Duty of licensee.~~

~~A. It shall be the duty of all licensees granted licenses under this chapter to comply with all applicable regulations in this chapter or elsewhere, and the failure of any licensee so to do shall constitute, but shall not be exclusive grounds for, suspension or revocation of any license and shall constitute a violation of this chapter.~~

~~B. It shall be the duty of all licensees granted licenses under this chapter not to have in their employ or financially interested in the business to be conducted any person who has had his or her license revoked or suspended by the City within one year from the date of such revocation.~~

~~C. It shall be the duty of any person engaged in or representing himself or herself as being engaged in an alarm monitoring business in the City, whether it be for selling, leasing, renting, servicing, inspecting, installing, maintaining, repairing, or monitoring alarms, to obtain all licenses required by this or any other chapter including those required pursuant to Chapter 6B.10, General License Provisions; and Chapter 6B.20, Annual Business License.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6B.40.080 Regulations.

~~A. All monitored alarm systems and alarm system operators shall comply with the regulations set forth in this chapter.~~

~~B. Fees shall be assessed for all responses to false monitored alarms.~~

~~C. No fee shall be assessed for a police response to the report of an audible or visual alarm.~~

~~D.~~ Mandatory enhanced call verification: All alarm system operators or alarm system monitoring companies must make a minimum of two calls to attempt to verify an alarm prior to requesting a police response. The first call shall be to the premise protected by the activated alarm. The second call shall be to a separate off-site number such as the mobile telephone of the owner or manager of the property.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.090 ~~Certain devices, systems, uses p~~Prohibited alarm systems.

A. No person shall operate or use an alarm system which emits an audible sound where such emission does not automatically cease within ten minutes.

B. No person shall operate or use an alarm system which automatically dials the Tacoma Police Department directly and delivers a prerecorded message.

~~C. No person shall install, monitor, operate, or use a monitored alarm system which is not licensed as required pursuant to this chapter. Any person who fails to obtain the license or licenses required by this chapter shall be subject to the penalty provisions herein. Further, no police response may be made to any alarm devices monitored by a non-licensed person. Non-licensed persons shall be solely liable to their system subscribers for failure to obtain~~

any license required by this chapter and shall have an affirmative duty to notify their system subscribers of their non-licensed status and the resultant potential for no police response.

D. All monitored alarm systems subject to this chapter that are installed in the City on or after January 1, 2005, shall use alarm control panels that meet industry standard CP-01 UL listing.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.100 Suspension or revocation.

The Director shall have the power and authority to suspend or revoke any license issued under the provisions of this chapter as set forth in Section 6B.10.140. The Director shall notify the licensee in writing, by ordinary mail, of the suspension or revocation of the license and the grounds therefor. Any license issued or application therefor under this chapter may be denied, suspended, or revoked based upon one or more of the grounds set forth in Section 6B.10.140 and/or any violation of this chapter. The Director shall also immediately notify the Police Department of the revocation, and no police response may be made to any alarm devices monitored by the alarm system operator until all suspended or revoked licenses are reinstated. No suspended or revoked license may be reinstated without prior payment of all license and alarm response fees due and outstanding.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.110 False alarm response fee.

A. A. Alarm system operators shall be assessed a false alarm response fee for each police response to a false monitored alarm which is registered to the alarm system operator.

B. No fee shall be assessed if the responding units are canceled prior to arrival at the scene.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.120 Fees.

The license fees for the various classes of licenses shall be and are hereby fixed as follows:

Alarm System Operator License	Fee
For one to 100 devices	$100 per annum
For 101 to 200 devices	$200 per annum
For 201 to 500 devices	$400 per annum
For 501 or more devices	$500 per annum
Monitored Alarm Device License	$40 per device Fee
Alarm devices annual	$40 per device
Alarm devices installed January 1 to March 31	$30 per device
Alarm devices installed April 1 to June 30	$20 per device
Alarm devices installed July 1 to September 30	$10 per device
False alarm service fee	$100 per occurrence

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(Ord. 28045 Ex. A; passed Dec. 13, 2011: Ord. 27406 § 6; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.130 Term of license Due date.List of monitored alarm devices

A. Device license fees. The fees for monitored alarm devices shall be payable in advance by the alarm system operator on an annual basis with quarterly adjustments for additional devices.

1. The initial device license fees shall be payable on or before January 31 of the annual period for which fees are due. At the time of payment of the annual fee, each aAlarm system operators shall provide with their annual

monitored alarm license fees, in the format specified by the Director ~~(e.g. an Excel spreadsheet)~~, a list of all addresses at which monitored alarms are installed, and the name of the corresponding system subscriber~~., and the number of devices at such address~~.

~~2. Each alarm system operator shall provide quarterly, in the format specified by the Director (e.g. an Excel spreadsheet), a list of all additional addresses at which monitored alarms were installed during such quarter, the name of the corresponding subscriber, and the number of devices at such address. The Director shall assess each alarm system operator for each additional device and such assessment shall be due and payable no later than the last day of the month following the end of the quarter.~~

~~B. False alarm service fees. The false alarm service fees imposed by this chapter shall be due and payable within 60 days of the date they are billed to the alarm system operator, and remittance shall be made on or before such date.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.40.~~150~~140Duty to supply ordinances and information to system subscribers.

A. All persons licensed pursuant to this chapter shall supply each of their system subscribers with copies of all current ordinances pertaining to alarms and a copy of the licensee's policies and practices with respect to billing a system subscriber for any fees or licenses established by this or any other chapter of the TMC.

B. All persons licensed pursuant to this chapter shall notify each of their system subscribers of the revocation or suspension of any license issued by the City. The notice shall be in writing and shall be mailed to all system subscribers no later than the tenth calendar day following such suspension or revocation.

C. Failure to comply with the notice requirements set forth herein shall constitute separate and independent grounds for imposition of penalties as provided ~~herein a~~in 6B.10~~nd for suspension and revocation of any license(s) issued by the City.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

~~6B.40.160 Public disclosure—Confidentiality—Information sharing.~~

~~All requests for public disclosure or for information shall be governed by Section 6A.10.200. In addition to the provisions of Section 6A.10.200, information and statistics gathered by the Tacoma Police Department and/or the Law Enforcement Support Agency pertaining to calls for service and responses to alarms may be made available to the Department and other City departments, as necessary, to fully carry out the purposes of this chapter.~~

~~(Ord. 27297 § 1; passed Nov. 23, 2004)~~

6B.90.030 License fees.

The license fees shall be as set forth below; provided, however, that no such license fee shall be charged any person engaged in general merchandising or retailing at a fixed location with the sale of fire detection or fire alarm devices and equipment being but incidental to that business.

~~Fire Protection License~~Fee	~~Fee~~$150
~~First Year Fee~~	~~$150~~
~~Subsequent annual fee~~	~~$ 90~~

(Ord. 27406 § 12; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.110.010 License required.

It shall be unlawful for any person to operate or engage in the business of operating a garage as defined in this chapter without first obtaining a license pursuant to the provisions of this chapter. Any person holding a garage license issued pursuant to this chapter shall be entitled to engage in the business of repairing, or restoring, ~~or towing~~ automotive vehicles or marine vessels and of selling automotive and/or marine vessel parts and accessories, provided that such licensee complies with any additional federal or state statutes, or local ordinances that may apply.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.110.020 Definitions.

For the purposes of this chapter, words and phrases shall mean as follows:

"Automotive and/or marine vessel parts store" means any facility or place of business whose primary purpose is the sale of new or used parts, accessories, tires, equipment, and similar products typically utilized in the maintenance or repair of motor vehicles, trailers, or marine vessels.

"Garage" means a service station, repair garage, storage garage/parking lot, vehicle part recycling facility, automotive and/or marine vessel parts store, or mobile garage as defined herein.

"Marine vessel" means any watercraft propelled by oars, paddles, sails, or engines.

"Mobile garage" means any business entity that engages in the trade of the repair or restoration of motor vehicles, trailers, or marine vessels for compensation, when such business entity is capable of moving or being moved to the customer's location for the purpose of providing such services.

"Motor vehicle" means any form of self-propelled vehicle, suitable for carrying and/or transporting at least one person.

"Repair of motor vehicles, trailers, or marine vessels" means the trade of the diagnosis and/or repair of malfunctions of motor vehicles, trailers, or marine vessels, including, but not limited to, the installation, manufacture, exchange, restoration, or repair of mechanical, electrical, or body parts; the performance of any electrical or mechanical adjustment; the performance of any service work incident to routine maintenance or repair; or the fabrication, repair, or lay-up of fiberglass materials commonly used in the repair of motor vehicle bodies or marine vessel hulls.

"Repair garage" means any facility or place of business at which the trade of the repair of motor vehicles, trailers, or marine vessels is engaged in for compensation and which is not classified as a service station; however, repair garages may offer services listed under the service station definition.

"Service station" means any facility or place of business at which any of the following activities are engaged in for compensation:

A. The selling and dispensing of fuel for motor vehicles or marine vessels;

B. Services in connection with the repair of motor vehicles, trailers, or marine vessels when such repair or maintenance is limited to the adjustment, repair, and/or replacement of parts requiring no open flame or welding;

C. The replacement of motor vehicle, trailer, or marine vessel exterior body panels, the replacement of motor vehicle, trailer, or marine vessel structural and nonstructural body components, or the replacement or repair of motor vehicle, trailer, or marine vessel suspension components; provided, that such replacement and/or repair requires no open flame or welding; and provided further, that such repair shall not include the application of paint and/or similar finishes;

D. The repair of motor vehicle, trailer, or marine vessel exterior body panels; provided, that such repair does not include the application of more than nine square feet of fiberglass materials;

E. The repair or replacement of motor vehicle, trailer, or marine vessel windows or windshields;

F. The washing or cleansing of motor vehicles, trailers, or marine vessels; or

G. The renting or leasing of motor vehicles or trailers.

"Storage garage and parking lots" means any facility or place of business at which motor vehicles and/or trailers are stored or parked in exchange for consideration in any building, enclosure, or space in which there is provided room for the storage or parking of more than three motor vehicles or trailers.

"Trailer" means a cart, wagon, or other nonmotorized vehicle designed to be pulled by a motor vehicle.

"Vehicle part recycling facility" means any facility or place of business at which parts are removed from motor vehicles or trailers, and such removed parts are sold or reused by any means whatsoever; provided, that, for the purpose of this chapter, lubricants and fluids shall not be construed to be an automotive part.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.110.030 License fees.

The annual license fees for garages shall be payable in advance and are hereby fixed in the amounts shown in the following schedule:

Type of license	**Fees**
Automotive and/or marine vessel parts store	$ 50
~~Fuel pump, per nozzle~~	~~$ 5~~
Mobile garage	$ 50
Repair garage	$100
Service station	$ ~~5~~100
Storage garage and parking lots	$ 50
Vehicle part recycling facility	$100

(Ord. 27406 § 13; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.120

GAS FITTERS AND APPLIANCE INSTALLERS

Sections:

6B.120.010 Definition.

The term "Gas Fitter and Appliance Installer" means any person who actually performs the labor required in installing, extending, altering or repairing any gas piping, venting, fixture, or appliance, and who is the holder of a valid Certificate of Competency issued pursuant to the provisions of this chapter.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.020 Fees.

The Certificate of Competency and exam fees are hereby fixed as follows:

	Fees
Certificate of Competency	$50 per year
Exam	$20

(Ord. 27406 § 14; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.030 Exemptions.

A Gas Fitter and Appliance Installer's Certificate of Competency shall not be required of those persons engaged exclusively in the laying of gas mains in the public streets or alleys, nor shall such a certificate be required of the owner of a single-family dwelling doing his or her own work in his or her own home. Such owner must be able to demonstrate to the inspector that he has sufficient knowledge to properly make the installation desired.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.040 Experience required.

A. All applicants for a Gas Fitter and Appliance Installer's Certificate of Competency shall be familiar with all codes, ordinances, and regulations governing the installation of gas piping, venting, fixtures, or appliances, and shall possess at least one of the following qualifications:

1. Proof of a reasonable amount of experience acquired on installations which have been approved by a recognized authority.

2. Certificate indicating satisfactory completion of a course in gas fitting and/or appliance installing from a recognized vocational or technical school.

B. The Examining Board shall determine the sufficiency of the experience or education of the applicant.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.050 Gas Fitters and Appliance Installers' Examining Board.

There is hereby created an Examining Board for Gas Fitters and Appliance Installers consisting of the Public Works Director, or his or her duly authorized representative, as an ex officio member, who shall not be entitled to a vote; two licensed gas installation contractors, one of whom shall be principally engaged in piping work and one of whom

shall be principally engaged in sheet metal work; and two certificated Gas Fitters and Appliance Installers, one of whom shall be principally engaged in piping work and one of whom shall be principally engaged in sheet metal work, all of whom are to be appointed by the City Manager and shall serve without compensation. The term of office for each shall be four years; provided, however, that in appointing the first Board, one gas installation contractor and one gasfitter shall be appointed to two-year terms. Such members shall be selected from persons qualified by training and experience to pass upon matters pertaining to this chapter. In the event of the death, resignation, or removal of any member of the Board, his or her successor to serve his or her unexpired term shall be appointed. The Board shall adopt its own rules or procedures to fulfill its functions under this chapter. Said Board shall select its own chairman, and a majority of the members shall constitute a quorum. The Chief of the Buildings Division, or his or her duly authorized representative, shall serve as Secretary to the Board.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.060 Examinations.

It shall be unlawful for any person to engage in or work as a Gas Fitter and Appliance Installer or to install, extend, alter, or repair any gas piping, venting, fixture, or appliance in any building or elsewhere without first making application to the Examining Board hereinabove provided for, and at such time and place as said Board may designate, submitting to and passing an examination as to his or her qualifications and competency as a Gas Fitter and Appliance Installer.

The examination shall be of such character, both practical and theoretical, as to thoroughly test the applicant's ability and competency as a Gas Fitter and Appliance Installer.

The Examining Board shall conduct examinations from time to time, but no applicant shall be compelled to wait more than 60 days following his or her application. Said Board shall examine such applicant as to his or her knowledge of gas piping, installation, and venting of fixtures and appliances, necessary safety controls, and the overall safety precautions necessary in the installation of gas.

The Board, if satisfied with the competency of such applicant, shall thereupon authorize the issuance to the applicant of a Gas Fitter and Appliance Installer's Certificate of Competency, authorizing him or her to engage in the work of installing, extending, altering, or repairing gas piping, venting, fixtures or appliances as an artisan or journeyman Gas Fitter and Appliance Installer. Temporary working permits may be issued to an applicant by the Chief of the Buildings Division until such time as the Examining Board meets and completes the examination. The Board shall keep and preserve a record of all persons examined by it and to whom such Certificates of Competency have been issued.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.120.070 Expiration of certificate.

The Certificate of Competency of any Gas Fitter and Appliance Installer shall not be renewed without examination when allowed to become delinquent for more than one year. All such Certificates of Competency shall run for the calendar year and shall expire on December 31 of each year.

(Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.150

OIL AND GAS DELIVERY VEHICLES

Sections:

6B.150.010 License required.

It shall be unlawful to operate any tank vehicle used in the delivery of oil, gasoline, fuel oil, and all other liquid petroleum products in the City without first obtaining a license pursuant to the provisions of this chapter.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.150.015 Definitions.

"Mobile/fleet fueling truck" means "tank vehicle."

"Tank vehicle" means any commercial motor vehicle such as a trailer truck or tractor-trailer with a tank-body that is designed to transport liquid or gaseous materials within a tank as defined in the Code of Federal Regulations Title 49, now and as hereafter amended.

6B.150.020 License fees.

The annual license fees for a tank vehicles ~~delivering oil, gasoline, fuel oil, and other petroleum products~~ is~~are~~ hereby fixed as follows:

Tank ~~er truck~~vehicle or mobile/fleet fueling truck	$~~100~~100
~~Tanker trailer~~	~~$ 75~~
~~Mobile/fleet fueling truck~~	~~$100~~

(Ord. 27406 § 18; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.150.030 License requirements.

In lieu of ~~the~~ a Fire Department inspection, the City will validate that current U.S. Department of Transportation (~~"~~DOT~~"~~) inspections that are required by federal law have been completed. All applicants for the license provided by this chapter, including renewal licenses, shall furnish a notarized affidavit that the following requirements have been met: (1) the appropriate annual cargo tanker inspection required by 49CFR180.407; (2) an annual vehicle inspection complying with 49 CFR 396; (3) any inspection or other federal requirement to qualify a cargo tank for hauling gasoline 40 CFR 63.425(E)(1) and(2); (4) that all inspections were performed by a DOT registered tanker inspection facility; and (5) that all required inspections ~~must~~ have been completed within the last year. This will validate that safety features for the cargo tank are appropriate and functioning and that the safety features of the truck itself ~~have been found~~ared in compliance with federal standards.

(Ord. 27406 § 19; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.160.020 Definitions.

“Continuous garage sale” means a garage sale that is (1) conducted for more than three consecutive days; or (2) a third or more garage sale that commences within the same calendar year as the two most recent garage sales conducted at the same premises; provided, however, that such third or more garage sale is conducted by a resident or residents of the same household that conducted the prior two most recent garage sales from such premises. Continuous garage sales are not allowed.

“Garage sale” means the offering for sale by a resident or residents of a dwelling of five or more items of used clothing, furniture, home appliances, or merchandise generally used in a dwelling, which have been used by the resident or residents offering such items for sale. No such items can be sold that are owned or controlled by anyone regularly engaging in the business of selling such items. Sales are only allowed by a resident of the dwelling of the resident or residents offering the items for sale; provided that residents of separate dwelling units may combine their garage sales at the premises of one dwelling unit for a combined garage sale. Garage sales can only be conducted between the hours of 8:00 a.m. and 6 p.m. Included in the definition of garage sales are yard sales, patio sales, or other similar sales. Garage sales are limited to twice in any calendar year.

“Pawnbroker,” means every person engaged, in whole or in part, in the business of loaning money on the security pledges, deposits, or conditional sales of personal property, or who makes a public display at or near his or her place of business of any sign or symbol generally used by pawnbrokers, or of any sign indicating that he or she has money to loan on personal property on deposit or pledge.

“Precious metals” means gold, silver, and platinum.

“Secondhand goods” means any item of personal property, which is not new, that is purchased, traded in, or offered for sale, to include gift cards or gift certificates.

“Secondhand goods dealer” means any person engaged, in whole or in part, in the business of buying, selling, trading, consignment selling, or otherwise transferring for value secondhand goods. The term “secondhand goods” for purposes of transactions by a secondhand goods dealer, do not include: (a) goods donated to charitable organizations, (b) coins, (c) stamps, (d) postcards, (e) books and magazines, (f) or any article of clothing. “Secondhand goods dealer” shall include “secondhand precious metal dealer” as defined in this section.

“Secondhand precious metal dealer” means any person engaged in whole or in part in the business of buying, selling, trading, consignment selling, or otherwise transferring for value secondhand goods that is a precious metal. The terms "precious metal" and “secondhand goods” for purposes of transactions by a secondhand precious metal dealer, do not include: (a) Gold, silver, or platinum coins, or other precious metal coins, that are legal tender, or precious metal coins that have numismatic or precious metal value, (b) gold, silver, platinum, or other precious metal bullion, or (c) gold, silver, platinum, or other precious metal dust, flakes, or nuggets.

“Temporary” means the organized sale or purchase of secondhand goods for ten consecutive days or less.

“Trade-ins” means those secondhand goods received or sold that are taken in trade or as partial payment by the licensee in exchange for goods of a similar kind.

(Ord. 28095 Ex. A; passed Nov. 6, 2012: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.170.060 Criminal Background Check/Fingerprints/Photographs.

All applicants for a solicitor's license must consent to be fingerprinted for a state and federal criminal background check and shall submit, with his or her application, one ~~two current~~current full face photograph~~s~~ of the applicant ~~or~~ consent to a full face photograph taken by the Director. ~~and one current right profile photograph of the applicant, each of said photographs to be of the size of two inches square. One full face and one right profile photograph shall become a part of the applicant's license, if issued; and the other full face photograph shall be filed with the application~~. Applicants previously licensed and fingerprinted under Chapter 6B.170 may be required to again be fingerprinted if reapplication is not received within five years of initial licensing.

(Ord. 28208 Ex. A; passed Mar. 18, 2014: Ord. 28006 Ex. A; passed Jul. 26, 2011: Ord. 27406 § 22; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.180

SALES – SIDEWALK VENDORS

Sections:

6B.180.010 Purpose.

The purpose of this chapter is to provide for regulation of long-term sidewalk vending activities in ~~certain~~ commercially zoned districts ~~as defined in Section 6B.180.030~~, in order to more fully promote the public interest by contributing to an active and attractive pedestrian environment. In recognition thereof, reasonable regulation of ~~street and~~ sidewalk vending is necessary in public ways to protect the public health, safety, and welfare and the interests of the City. ~~in the primary use of public streets and sidewalks for use by vehicular and pedestrian traffic.~~

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.030 Definitions.

"Arts and crafts" means items for sale that are of original creation, designed and produced by the original creator. No copies are permitted except for prints of original art work produced by the original creator. Items made from kits, imported items, factory-made items, unfinished work, arts and crafts supplies, and manufactured or kit jewelry are not allowed. Arts and crafts items may only be sold by the original creator or his or her authorized agent.

"Authorized agent" means a designated person or persons selling original creations on behalf of the person that created the art or craft. The art and craft must remain the property of the original creator. No person can sell arts and crafts which have been purchased from the original creator.

~~"Commercially zoned district" means abutting private or public property which is presently or hereafter zoned M-1, M-2, PMI C-1, C-2, HM, UCX, UCX-TD, CCX, NCX, CIX, HMX, T, DCC, DMU, DR, WR, S-1, S-6, or S-8 pursuant to Title 13 – Land Use Regulatory Code of the TMC. No provision of this chapter or license issued hereunder shall be construed to allow any activity prohibited by the applicable regulations of the Tacoma Municipal Code.~~

"Public ways" means and includes all portions of streets and alleys within the corporate limits of the City and, in addition, such other property under the control of the City which the City Council may from time to time designate as public ways for the express purpose of allowing vending thereon, with any vending in such areas so designated by City Council resolution to be subject to such additional or different requirements as may be provided by the resolution (or amendment thereto) designating such area as a public way. No provision of this chapter shall be construed to allow vending (by license or otherwise) in any portion of (1) a public way primarily used by motorized vehicles; (2) in areas, trails, or paths set aside or designated by the City as bike paths or nature trails, or (3) any public way or part thereof which the City Council, by resolution, shall designate as being inappropriate for vending activities.

"Sidewalk vending unit" means a mobile unit that can be removed from the ~~street~~sidewalk each night and is operated from a fixed location on a public way from which food, flowers and plants, and "arts and crafts," as defined in this chapter, and/or non-alcoholic beverages are provided for the public with or without charge; except, however, that the provisions of this chapter shall not apply to mobile caterers, generally defined as follows: a person engaged

in the business of transporting, in motor vehicles, food and beverages to residential, business, and industrial establishments pursuant to prearranged schedules, and dispensing from the vehicles the items, at retail, for convenience of the personnel of such establishments.

"Vending" means the sale of food, flowers and plants, and "arts and crafts," as defined in this chapter, and/or non-alcoholic beverages only from a sidewalk vending unit upon public ways of the City.

"Vendor" means a person who engages in the activity of sidewalk vending.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.040 Application requirements.

Application for a license shall be filed with the Department on forms deemed appropriate by the Director. Such application shall contain all the information requested below, along with the current fee, to ~~qualify~~ apply for the license. A decision to issue a license is based on this information, other applicable ordinances**,** and other requirements as may be set forth herein.

The applicant must satisfy the following requirements before a sidewalk vending license can be issued:

A. Submit the name and home and business addresses of the applicant, and the name and address of the owner, if other than the applicant, of the vending business or sidewalk vending unit to be used in the operation of the sidewalk vending business.

B. Submit a copy of the adjacent property owner and business owner's written approval for the sidewalk vending site(s). Written approval from a legal representative of the above party may be substituted.

C. If selling only nonfood items and no approval is required from the Tacoma-Pierce County Health Department, as outlined in subsection G below, submit an accurate diagram of the mobile unit. Include dimensions (length, width, and height). Show location of overhead coverage, if provided.

D. If selling arts and crafts, submit a signed arts and crafts certification, as provided by the City.

E. Submit the address of the location or locations the sidewalk vending unit will operate along with an accurate drawing which shows the public area to be used. Each applicant may request up to two locations. If two locations are requested and the sidewalk vending unit will be traveling from one location to another location throughout the day, then a route path between the two locations must be submitted along with the application.

F. Obtain comprehensive general liability, including products/completed operations liability insurance, naming the City of Tacoma and the adjacent property owner as additional insureds for both ongoing and completed operations. Minimum liability to be maintained is $~~5~~1,000,000 public liability and property damage. If applicant hires employees, applicant shall maintain Statutory Work Compensation and also Employers Liability with limits not less than $1,000,000. The applicant shall submit a certificate of insurance and copies of the additional insured endorsement(s) to the Department.

G. ~~Vendors of food and beverages shall c~~Comply with the inspection provisions and standards for mobile food units, as set forth in WAC 246-215~~-121~~ and any amendments thereto. To demonstrate compliance with these requirements, the applicant shall obtain plan check approval from the Tacoma-Pierce County Health Department and submit a copy of the Mobile Unit Permit to the City.

H. All sidewalk vending units in which food or beverage preparation occurs are subject to inspection by the Tacoma Fire Department to assure compliance with Tacoma Municipal Code 3.02, Fire Prevention Code, including but not limited to compliance of ~~of any~~ cooking or heating apparatus and fire extinguisher requirements. ~~with the following provisions:~~

~~1. Deep fat, oil, or grease cooking processes employing more than one quart of heated liquid shall be protected by an approved automatic fire extinguishing system. Processes involving heated fat, oil, grease, or liquids other than water shall be shielded from the public.~~

~~2. Liquid Petroleum Gas (LPG) containers are allowed but shall be limited to no more than five gallons capacity, and no more than one container per cart or vendor display. Processes requiring other flammable gases, liquid, or solid fuels shall not be permitted, unless first approved by the Fire Department.~~

~~3. Storage of extra fuel is prohibited in the area of vending, or in any buildings, except as permitted by the Fire Department.~~

~~4. Pressure cooking appliances shall be prohibited.~~

~~5. A 40B:C or five pound Class K fire extinguisher is required in all vending carts.~~

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.050 Fees.

The fees for sidewalk vending are hereby fixed as follows:

Description	Fees
Initial application fee	$100
Annual license fee	$ 50
Sidewalk ~~V~~vending change application fee	$ 25

~~The application fees are nonrefundable.~~

If at any time during the annual license term a vendor changes the size of the sidewalk vending area or mobile unit, location, or adds a new heating or cooking apparatus a new application for approval must be submitted with an application fee of $25.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27406 § 23; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.060 Issuance.

After the filing of a completed application for a sidewalk vending license, the applicant shall be notified by the Department of the decision on the issuance or denial of the license. In the event that two or more applications for the same location are received, the earliest application received by the Department, if approved, shall be awarded the location. Upon approval of the application, the license shall not become effective until signed by the applicant. Upon denial of the application, the applicant shall be so notified pursuant to Section 6B.180.120.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)

~~6B.180.070 Term of license.~~

~~All licenses issued pursuant to this chapter, except as to those licenses for which a shorter 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 12 months from the effective date thereof, unless sooner revoked in the manner provided in this chapter.~~

~~(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)~~

6B.180.075 Tollefson Plaza.

A. Any sidewalk vendor licensed under this chapter may, in addition to his or her approved location(s), operate his or her sidewalk vending business on Tollefson Plaza located on South 17th Street and Pacific Avenue.

B. Vendors must be at least 5 feet from all adjacent vendors.

C. Vendors are not required to get the approval of adjacent property owners, business owners, or vendors when operating on Tollefson Plaza.

D. Per 6B.180.100 E, during special events permitted by the City located on Tollefson Plaza, a vendor may not operate his or her sidewalk vending business without the permission of the special event permit applicant or special event sponsoring unit, as designated on the special event permit approved by the City.

E. A sidewalk vendor who, in the City's sole discretion, is operating or locating in Tollefson Plaza in a manner which impedes public access, ingress, egress, or otherwise interferes with the City's or its licensees use of Tollefson Plaza, shall be required to relocate or remove his or her vending business as directed by the City.

(Ord. 27897 Ex. A; passed Jun. 22, 2010)

~~**6B.180.080 Change in vending.**~~

~~If at anytime during the license term a vendor changes the size of the vending area, or mobile unit, location, or adds a new heating or cooking apparatus a new application for approval must be submitted to the Department and pay the application fee of $25.~~

~~(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)~~

6B.180.090 No transfer.

~~Street~~ Sidewalk vending licenses are not transferable.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.100 Location ~~review~~.

Upon receipt of a completed~~n~~ application for a sidewalk vending license, the City shall review the location to determine if it is suitable for sidewalk vending. In making this determination, the City shall consider the following criteria:

A. No license shall be issued for a location within 25 feet of a location for which a license has already been granted, unless agreed to by the adjacent property owner(s), adjacent business owner(s) and adjacent vendor(s) with a similar type of merchandise operating under this section.

B. The license operating location must be within an approved ~~"~~commercial~~ly~~ zone~~d districts"~~ as ~~defined in~~approved by the City. ~~Section 6B.180.030~~.

C. The use of sidewalk vending ~~devices~~ units must be compatible with the public interest in use of the public ways as public rights-of-way.

D. The location of the sidewalk vending unit shall not reduce the width of any pedestrian walkway below ~~five~~ six feet, shall not force any pedestrian walking or using a wheelchair to leave the sidewalk, and shall not restrict the sidewalk to a degree that such pedestrians are required to pass single file.

E. A sidewalk vendor shall not use a given location when the City approves a special event permit per TMC 11.15 that uses the same public ways unless the sidewalk vendor is a participant of the special event and has received permission from the special event applicant...~~The license, as it applies to a given operating location, may be suspended upon notification thereof to the vendor when the City approves a special event permit that uses the same public ways.~~

F. No person or corporation shall either pay or accept payment for the written consent required for issuance or continued operation of a sidewalk vending license.

G. No person or corporation shall either pay or accept payment from the sidewalk vendor for the use of public~~private~~ property to obtain a sidewalk vending license.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.110 Restrictions.

Any person with a valid sidewalk vending license issued pursuant to this chapter shall be subject to the following restrictions:

A. All sidewalk vendors must display, in a prominent and visible manner, the license issued by the Department under the provisions of this chapter.

B. The height of a sidewalk vending unit, excluding canopies, umbrellas, or transparent enclosures, shall not exceed five feet. The length of the sidewalk vending unit shall not exceed (96) ninety-six inches.

C. Umbrellas or canopies shall have a minimum clearance of (7) seven feet and a maximum height of (9.5) nine feet six inches above the sidewalk. Umbrellas or canopies shall not exceed (40) forty square feet in area.

D. The sidewalk vending site must be clean and orderly at all times, and the vendor must provide a refuse container for use by patrons.

E. Soliciting business ~~with~~ from persons in motor vehicles. ~~or soliciting from motor vehicles is prohibited~~.

F. No merchandise shall be displayed using street furniture (planters, street lights, trees, trash containers, etc.) or placed upon the sidewalk. ~~In addition, sales of merchandise shall not be allowed from a vehicle~~. No use of any automatic coin-operated vending dispenser shall be allowed. Persons conducting a sidewalk business must use an approved sidewalk vending unit.

G. Vendors shall not hinder the use of any phone booth, mailbox, parking meter, fire alarm, fire hydrant (including automatic sprinklers or standpipe connections), newspaper vending machine, waste receptacle, bench, transit stop, street parking space, or traffic signal controllers.

H. Vendors shall obey any lawful order from a ~~p~~Police ~~officer~~ or Fire Department official or any other City official during an emergency or to avoid congestion or obstruction of the sidewalk.

I. No vendor shall make any noise that exceeds the standards in Chapter 8.122.020 TMC or use mechanical audio or noise-making devices to advertise his or her product.

J. No ~~licensed~~ sidewalk vending unit shall be left unattended on a sidewalk, nor remain on the sidewalk between 2:00 a.m. and 6:00 a.m.

K. Vendors shall not be within 10 feet of a driveway or bus stop sign, or within 20 feet from a crosswalk, pursuant to RCW 46.61.570, unless approved by the City~~not vend within 10 feet of a driveway, bus stop sign, or crosswalk at any intersection, unless approved by the City~~.

L. Utility service connections are not permitted, except electrical, when provided by the owner of the adjacent property. Electrical lines are not allowed overhead or lying in the pedestrian portion of the sidewalk or in an area where a vehicle can drive over them, however, electrical cords or cables may cross the sidewalk if they are covered with an ADA compliant ramp or cover.

M. No ~~vending~~ products may be sold while a sidewalk vendor is in transit.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27673 Ex. C; passed Feb. 19, 2008: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.180.120 License or location revocation or denial.

A. In addition to the reasons for suspension or revocation set out in Section 6B.10.140, the Director may suspend or revoke any license issued under this chapter if the Mobile Unit Permit issued by Tacoma-Pierce County Health Department is cancelled or revoked, or for any violations of this chapter.

B. The grant of a license for sidewalk vending on a public way is a grant of a temporary privilege to use a portion of the public way to serve and benefit the general public, and any rights of use permitted under the provisions of this chapter shall be of a temporary and revocable nature.

C. Any approved location granted under the provisions of this chapter may be revoked by the Director or other authorized representative of the City; if the Director or authorized representative finds that the location no longer serves or benefits the public and is inconsistent with Section 6B.180. The Director may rely, in part, on correspondence regarding the sidewalk vendor's operations and compliance with the requirements of the TMC filed with the Director by property owners and businesses located within reasonable proximity to the sidewalk vending location.

~~A. The Director shall have the power and authority to revoke or deny either the issuance or renewal of any license applied for or issued under the provisions of this chapter. The Director shall notify such applicant or licensee in writing, by certified mail, of the denial of a license application or the suspension or revocation of an existing license and the grounds therefor. Any license issued under this chapter may be suspended or revoked immediately based on one or more of the following grounds:~~

~~1. Health Department authorization for the sidewalk food or beverage vending unit is canceled.~~

~~2. Any other license issued under the Tacoma Municipal Code has been suspended, revoked, or canceled.~~

~~3. The vendor has violated or failed to meet any of the provisions of this chapter.~~

~~4. The licensee does not have currently effective an insurance policy in the minimum amount as specified in Section 6B.180.040.F of this chapter.~~

~~5. The license was procured by fraud or false representation of fact.~~

D.~~6.~~ An adjacent property owner~~-~~, adjacent business owner or legal representative may withdraw~~s~~ consent in writing for the sidewalk vending unit. Vendors shall be given 30 days' notice of consent withdrawal before the Director will revoke the license.

~~B. The grant of a license for vending on a public way is a grant of a temporary privilege to use a portion of the public way to serve and benefit the general public, and the applicant for the license shall have the burden to prove that any proposed vending activity will enhance and further the public interest consistent with the use of the public way by the general public and the City for other authorized uses and activities, and any rights of use permitted under the provisions of this chapter shall be of a temporary and revocable nature, at the discretion of the City; therefore, all licenses granted under the provisions of this chapter may be revoked without cause by the Director other authorized representative of the City, upon 30 days' prior notice.~~

~~C. In determining whether a license is to be denied or revoked, the Director may rely, in part, on correspondence regarding a vendor's operation and compliance with the requirements of this section filed with the Director by~~ E~~property owners and businesses located within reasonable proximity to the vendor's licensed location.~~

E~~D~~. Where a sidewalk vendor does not use the licensed location as approved under this section for a continuous 30-day period during the period of June 1 through August 31 of each year and where another vendor applies for the location, such license will be revoked.

(Ord. 27897 Ex. A; passed Jun. 22, 2010: Ord. 27297 § 1; passed Nov. 23, 2004)

Chapter 6B.200

SEPTIC AND SIDE SEWER CONTRACTORS

Sections:

6B.200.010 License required.

It shall be unlawful for any person to engage in the business of laying side sewers or making side sewer connections in the City or of installing, maintaining, or servicing septic tanks and septic tank installations and equipment, or to dump, directly or indirectly, any sewage into any part of the storm water or sanitary sewer system or treatment plant of the City without first having obtained a license pursuant to the provisions of this chapter.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.200.020 Definitions.

"Septic tank" means any underground tank, together with drain field and service connections, installed in connection with any house, building or structure, and within the confines of the lot or tract upon which such house, building or structure is situated.

"Septic tank contractor" means every person engaged in the business of installing septic tanks or maintaining or servicing any such septic tank or drain field or connections and equipment.

"Side sewer" means a pipe or sewer line connecting any house, building or structure with the public sewer, whether situated in a street, alley, or an easement provided therefore.

"Side sewer contractor" means every person engaged in the business of laying side sewers or of making side sewer connections and the business of septic tank contractor activities.

(Ord. 27297 § 1; passed Nov. 23, 2004)

6B.200.030 License fee.

The license fee under this chapter is hereby fixed as follows:

Type of license	Fee
Septic tank contractor	$200
Side sewer contractor, bond required	$200

(Ord. 27406 § 25; passed Aug. 30, 2005: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.200.040 Bond required.

No side sewer contractor's license shall be issued until the applicant has first filed with the City a Right-of-Way bond as required by TMC 10.22.

(Ord. 28208 Ex. A; passed Mar. 18, 2014: Ord. 27297 § 1; passed Nov. 23, 2004)

6B.200.050 Exemptions.

Any person working solely with septic tanks or as a septic tank contractor shall be exempt from the bond required in Section 6B.200.040.

(Ord. 27297 § 1; passed Nov. 23, 2004)

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Chapter 6B.220

FOR-HIRE REGULATIONS[1]

Repealed and reenacted by Ord. 28251 Ex. A, passed Sept. 30, 2014: Ord. 26701Ex. A, passed Apr. 3, 2007: and Ord. 27297 § 1; passed Nov. 23, 2004

Sections:

6B.220.130 Definitions.

For the purposes of this chapter 6B.220 of the Tacoma Municipal Code, the following terms, phrases, words, and their derivations shall have the meaning given herein; words not defined herein which are defined in Title 6, shall have the same meaning or be interpreted as provided in Title 6.

A. “Accessible for-hire vehicle” means a for-hire vehicle designed or modified to transport passengers in wheelchairs or other mobility devices where passengers can board the for-hire vehicle via a ramp or lift.

[1] Previous legislation: Ord. 28154 Ex. A; passed Jun. 11, 2013: Ord. 27863 Ex. A; passed Dec. 15, 2009: Ord. 27601 Ex. A; passed Apr. 3, 2007: Ord. 27297 § 1; passed Nov. 23, 2004

B. “Affiliated for-hire vehicle” means a for-hire vehicle licensed or associated to a particular for-hire transportation services company by using their application dispatch services, approved color scheme and/or trade name.

C. “Application” or “app” means a program or piece of software most commonly downloaded to a device including but not limited to a computer and/or a mobile device, that is designed to fulfill a particular purpose and/or provides content such as text, graphics, images, maps, communications, banking, payment services, music, software, audio, video, information or other materials available to users of the computer, mobile device and/or other device.

D. “Application dispatch” means technology that allows consumers to directly request transportation services from for-hire drivers and/or for for-hire drivers to accept compensation for transportation services via the internet using electronic devices, computer devices or mobile interfaces such as, but not limited to, smartphone and tablet applications. The app may include mapping services to show the locations of available for-hire drivers.

E. “Approved Mechanic” means a mechanic who 1) has met the automotive requirements of the National Institute for Automotive Service Excellence, 2) does not own, lease or drive a for-hire vehicle, and 3) has no financial interest, including any employment interest, in any for-hire vehicle or in any owner that owns or leases for-hire vehicles.

F. “Certificate of Safety” means a prescribed document approved by or provided by the Director completed by an approved mechanic certifying that a particular vehicle passed a uniform vehicle safety inspection, and that the vehicle is mechanically sound and fit for driving. The approved mechanic is responsible for checking that the plates, decals, customer notices as required by the City are legible and properly displayed as specified by the Director by rule.

G. “Classic car” means an automobile that was high priced when new, is currently of superior appearance, is a fine or distinctive automobile, that has been restored or maintained to current maximum professional standards of quality in every area, with components operating and appearing as new, and showing very minimal wear.

H. “Commercial activity” means the time a for-hire driver accepts a trip request through an online-enabled app or platform until the completion of the ride.

I. “Compensation” means remuneration or anything of economic value that is provided, promised, suggested, or donated primarily in exchange for services rendered.

J. “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.

K. “Dispatch Services” means a service which connects for-hire drivers to persons seeking transportation or persons engaging in peer-to-peer transportation whether via radio, phone, internet, mobile application, computer or other mechanical or electronic means.

L. “For-hire driver” means a TNC affiliated driver or a person physically engaged in driving a for-hire vehicle that is providing or soliciting transportation services, ridesharing and/or peer-to-peer transportation, whether or not said person is the owner of or has any financial interest in the ownership of said for-hire vehicle or whether or not the person is using an app, a dispatch service, an information service and/or similar method to provide transportation services for compensation.

M. “For-hire Driver Identification Card” means a card or similar issued or approved by the Director and identifying that the driver is licensed to operate in the City.

N. “For-hire Stand” shall mean that portion of any street set aside and designated as parking or standing space to be occupied by for-hire vehicles.

O. “For-hire Transportation Services Company” means:

1. A person who owns and operates a for-hire vehicle(s) and uses their own City approved color scheme and trade name;

2. A person who does not own and operate a for-hire vehicle but allows other people to affiliate a for-hire vehicle to the for-hire transportation services company's color scheme, trade name and/or dispatch services; or

3. A transportation network company as defined in this chapter.

P. "For-hire Vehicle" means any motor vehicle, whether a personal vehicle, fleet or commercial vehicle, or TNC affiliated vehicle held out to the public for hire or used for the transportation of persons for compensation; subject to call by the public generally, where the route traveled or destination is controlled by the customer, the compensation is calculated on the basis of an amount recorded and indicated on a taximeter, a mobile device app or an application dispatch service, by a written contract or invoice signed by both parties, or based on an initial fee, distance traveled, waiting time, or any combination thereof as permitted under this chapter, provided that, for-hire vehicle shall not mean:

1. School buses operating exclusively under a contract to a school district;

2. Ride-sharing vehicles under Chapter 46.74 RCW;

3. Limousine carriers licensed under Chapter 46.72A RCW;

4. Vehicles used by nonprofit transportation providers solely for elderly or persons with disabilities and their attendants under Chapter 81.66 RCW;

5. Vehicles used by auto transportation companies licensed under Chapter 81.68 RCW;

6. Vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices; and

7. Vehicles licensed under, and used to provide "charter party carrier" and "excursion service carrier" services as defined in, and required by, Chapter 81.70 RCW.

Q. "For-hire Vehicle Endorsement" means a decal, sticker or similar identification, issued or approved by the City, which is prominently displayed on a for-hire vehicle.

R. "For-hire Vehicle Owner" means a person that owns a for-hire vehicle.

S. "For-hire Vehicle Plate" means a numbered metal identification plate, issued by the City, permanently affixed to and prominently displayed on the rear of a for-hire vehicle.

T. "Licensee" means any person or entity licensed under this chapter.

U. "Operating a for-hire vehicle" means having a passenger in a for-hire vehicle, the for-hire vehicle is parked in a for-hire stand, the taximeter is engaged in the for-hire vehicle, the dispatch records show the vehicle has been dispatched, the for-hire vehicle top light is illuminated, the trip records show that the for-hire vehicle has started a shift and there is no record for ending a shift, the for-hire driver is signed into and active on the application dispatch service, the for-hire driver has offered transportation services to a passenger, the for-hire driver is engaged in commercial activity or any other facts reasonably showing that a for-hire driver has offered, or is available to offer, its services to a passenger. Operating a for-hire vehicle does not include using a personal vehicle for personal use.

V. "Operating in the City of Tacoma" means owning, leasing, advertising, driving, occupying and/or otherwise operating a for-hire vehicle that at any time transports any passenger for compensation from a point within the geographical confines of the City of Tacoma. A for-hire transportation services company is "operating in the City of Tacoma" if it provides application dispatch services to any affiliated for-hire driver at any time for the transport of any passenger ~~or item~~ for compensation from a point within the

geographical confines of the City of Tacoma. The term does not include being in control of a for-hire vehicle that is physically inoperable.

W. “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.

X. “Persons with disabilities” means any individual with a disability who has a sensory, mental, or physical impairment that substantially limits one or more of life’s major activities; is medically cognizable or diagnosable; has a record or history of such impairment; or is regarded as having such impairment. People with disabilities include ambulatory persons, whose capacities are hindered by sensory disabilities such as blindness or deafness, such mental disabilities as cognitive impairments or emotional illness, and physical disabilities that still permit the person to walk comfortably, or a combination of these disabilities. It also includes a semi-ambulatory person who requires such special aids to travel as canes, crutches, walkers, respirators, or human assistance, and a non-ambulatory person who must use wheelchairs or wheelchair-like equipment to travel.

Y. “Taximeter” means any mechanical or electronic device or instrument which, based upon a predetermined rate or rates, automatically calculates and displays, by means of figures, a fare based on distance traveled, time elapsed, or any combination thereof.

Z. “Transportation network company (TNC)” means a person operating in the City of Tacoma that enables TNC affiliated drivers to provide prearranged transportation services for compensation using an online-enabled TNC application or platform which connects passengers with for-hire drivers using ~~their personal~~ for-hire vehicles and that is subject to the licensing requirements under this chapter.

AA. “Transportation network company (TNC) affiliated driver” means a for-hire driver affiliated with a transportation network company.

BB. “Transportation network company (TNC) affiliated vehicle” means a ~~personal motor~~for-hire vehicle used for the transportation of passengers for compensation that is affiliated with a transportation network company. A personal vehicle while used for personal use is not considered a TNC affiliated vehicle.

CC. “Waiting Time” means time during which the for-hire vehicle is under the direction of a passenger and the for-hire vehicle is not moving.

(Ord. 28349 Ex. A; passed Mar. 8, 2016: Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.150 License expiration and renewal.

A. For-hire vehicle license.

1. Each for-hire vehicle owner shall pay an annual for-hire vehicle license fee per 6B.220.140 times the number of licensed vehicles.

2. Upon payment of the correct license fee by the for-hire vehicle owner and compliance with all other requirements for issuance of a for-hire vehicle license, the Director shall issue a license.

3. Notwithstanding the provisions of 6B.10 of the Tacoma Municipal Code, for-hire vehicle licenses shall expire on June 30th except that TNC affiliated vehicles shall expire on December 31st. Each for-hire vehicle owner must renew the for-hire vehicle license every year.

4. No for-hire vehicle license may be renewed unless all outstanding penalties assessed against the for-hire vehicle owner are paid in full, the for-hire transportation services company is in compliance with the provisions of this chapter, and the for-hire vehicle owner has filed a renewal application and paid the renewal fee and all inspection fees.

B. For-hire driver license.

1. All for-hire drivers' licenses issued pursuant to the provisions of this subtitle shall be effective as of the first day of the month of issuance regardless of the actual date of issue and shall expire one (1) year from the date of issuance.

2. Each for-hire driver must renew the for-hire driver's license every year, provide a new photograph~~s~~, and provide or submit to an updated criminal background check.

3. Effective January 1, 2015, all for-hire drivers' licenses issued pursuant to the provisions of this subtitle shall be effective as of the first day of the month of issuance regardless of the actual date of issue and shall expire two (2) years from the effective date ~~of issuance~~, except that TNC affiliated drivers shall expire on December 31st of every calendar year.

4. Effective January 1, 2015, each for-hire driver must renew the for-hire driver's license every other year, provide new photographs or consent to a full face photograph taken by the Director, and submit to a new criminal background check.

5. No for-hire driver's license may be renewed unless all outstanding penalties against the for-hire driver are paid in full to the Director and the for-hire driver has filed a renewal application and paid the renewal fee.

6. Whenever the for-hire driver license furnished by the City shall become worn out, damaged, faded or otherwise unfit for use, the City may require that such license be destroyed and may require the licensee to furnish new photographs if the City does not have current photos on file that can be used on the replacement license and purchase a replacement license according to the fee established in 6B.220.140.

C. The Director shall deny any renewal application if grounds exist for the Director to deny a license pursuant to 6B.220.210 and 6B.220.300 and may deny the renewal if grounds exist that would justify denial under 6B.10.

D. Denial of renewal of a for-hire vehicle or for-hire driver license is subject to appeal pursuant to Chapter 6B.10 of the Tacoma Municipal Code.

E. TNC affiliated for-hire drivers and vehicles will not be issued a For-hire Driver Identification Card or a For-hire Vehicle Endorsement as long as the TNC's app or application dispatch system provides a picture of the for-hire driver and for-hire vehicle to the passenger prior to the ride being accepted and while the passenger is in the vehicle. This subsection shall not be construed to exempt any TNC for-hire driver or for-hire vehicle from the licensing requirements in this chapter.

(Ord. 28349 Ex. A; passed Mar. 8, 2016: Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.180 For-hire transportation services company – Responsibilities.

The for-hire transportation services company shall:

A. Maintain a business address, mailing address, and email address (if available) where the owner can accept mail, and a business telephone in working order and/or an email address that can be answered during all hours of operation;

B. Comply, and require that all affiliated for-hire vehicle owner(s) and affiliated for-hire driver(s) comply with any applicable regulations promulgated under this chapter;

C. Ensure that each affiliated for-hire vehicle is insured as required pursuant to this chapter;

D. Provide proof of insurance to the Director required pursuant to this chapter;

E. Collect and store for at least two (2) years, records of service request (trip) originating in the City of Tacoma for affiliated for-hire vehicles, including daily records of for-hire vehicles in service, together

with the affiliated for-hire driver's name and vehicle number (if available), and lists of all affiliated for-hire vehicles and affiliated for-hire drivers. Records may be maintained electronically;

F. Maintain a dispatch service, application dispatch service or contracted dispatch service, utilizing two-way radios, wireless device communication or an online-enabled application or platform capable of providing reasonably prompt service in response to requests received by telephone, internet, email, online-enabled application or platform or other request for service by a prospective passenger The use of wireless communication devices while driving shall be utilized according to RCW 46.61.667, which prohibits the holding of a wireless communications device while driving;

G. Provide a system for passengers to retrieve lost articles;

H. The for-hire transportation services company shall maintain a record of each oral or written customer complaint that the for-hire transportation services company receives regarding regulations pursuant to this chapter, about the for-hire transportation services company, affiliated for-hire vehicle owner, or affiliated for-hire drivers operating in Tacoma. Where applicable, the for-hire transportation services company should include a notice of the action taken by the for-hire transportation services company to resolve the complaint, the nature of the complaint and the disposition;

1. The Director may request a record of complaints received by a for-hire transportation services company when investigating any complaint received by the City concerning possible violations of this chapter or regulations adopted hereunder by the for-hire transportation services company, affiliated for-hire vehicle owner or affiliated for-hire drivers while operating in Tacoma;

2. The Director may recommend corrective action to be taken by the for-hire transportation services company, for-hire vehicle owner or for-hire driver, revoke licenses and/or assess civil administrative penalties as provided in this chapter; and

I. Review criminal background checks and driving records for every affiliated for-hire driver and maintain records thereof if the for-hire transportation services company is conducting such checks themselves through a third party vendor approved by the Director. If a for-hire driver's background check or driving record results in any denial standard in accordance with 6B.220.210.A or 6B.220.300.A the for-hire driver shall not be permitted to provide transportation services by affiliating with the for-hire transportation services company using the for-hire transportation services company application dispatch or dispatch services and/or approved name and color scheme.

(Ord. 28349 Ex. A; passed Mar. 8, 2016: Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.190 For-hire transportation services company – Approval of color scheme.

A. When a for-hire transportation services company is going to use a color scheme for their for-hire vehicles and/or affiliated for-hire vehicles, the Director shall have final approval over a for-hire transportation services company's color scheme for each of its affiliated for-hire vehicles, in order to ensure that there is no risk of confusion between the colors of different for-hire transportation services companies, and to ensure that the color scheme meets the requirements of this chapter. Once a color scheme has been approved by the Director, the for-hire transportation services company must submit a for-hire vehicle license application according to the requirements in 6B.220.190 within 90 days of notification of color scheme approval and have a licensed affiliated vehicle in operation.

B. No two for-hire transportation services companies shall have the same colors, unless the owners provide evidence to the satisfaction of the Director that they have the right under a franchise, license, lease or other similar agreement with a for-hire transportation services company to use the color scheme of such for-hire transportation services company. If there exists any conflict between color schemes presented by a for-hire transportation services company in its application for a for-hire vehicle license with any other licensee(s) or applicant(s), the Director shall, after notice to all interested parties, and

review of their respective contentions, determine the matter and advise all interested parties of the Director's decision. The Director's decision shall be final.

C. No such license shall be issued if the color scheme or design to be used upon the vehicle is the same or similar to that being used by another licensee and as set forth in such licensee's application, unless the use of such color scheme or design be consented to in writing by all other licensees who use or adopt such similar or same color scheme or design, which agreement shall be filed with the City.

D. The for-hire transportation services company shall submit a sample color chips or picture of painted for-hire vehicle prior to filing a for-hire vehicle license application for approval of color scheme.

(Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.250 For-hire driver – License application and requirements.

A. A for-hire driver must complete, sign, swear to, and file with the Director a for-hire driver license application on forms provided or approved by the Director to include the following information:

1. Name, aliases, residence and business addresses, residence and business telephone numbers;

2. Place and date of birth (which must be at least twenty-one years of age on date of application), height, weight, color of hair and eyes;

3. Social security number and Washington State driver's license number. The applicant must present his/her Washington State driver's license or a copy thereof at time of application;

~~4. Proof that the applicant is a United States citizen or has documentation, as required by the United States Department of Homeland Security, Citizenship and Immigration Services, that the applicant is authorized to work in the United States;~~

~~5~~4. Documentation that a full criminal background check has been completed on the applicant through Washington State Patrol and Federal Bureau of Investigation criminal databases or through a Director-approved third party vendor and was reviewed as required in 6B.220.180.I. If a criminal background check is not conducted through a Director-approved third-party vendor, then the for-hire driver shall consent to be fingerprinted and the City will conduct a state and national Washington State Patrol and Federal Bureau of Investigation criminal background check;

~~6~~5. Information indicating whether or not the applicant has ever had a for-hire driver's, or driver's license suspended, revoked, or denied and for what cause;

~~7~~6. Documentation that a copy of the applicant's driving abstract from the Washington State Department of Licensing was reviewed as required in 6B.220.180.I or a signed statement authorizing the Director to obtain a current copy of the applicant's driving abstract from the Washington State Department of Licensing;

~~8~~7. Completion of a for-hire driver training ~~program~~course and successful completion of exam explained in more detail in 6B.220.280 and 6B.220.290;

~~9~~8. A statement under penalty of perjury of their physical and mental fitness to act as a for-hire driver;

~~10~~9. All applicants for a for-hire driver's license shall include with his or her application one current full face digital photograph of the applicant, submitted electronically or consent to a full face photograph taken by the Director. ~~The full face photograph shall become a part of the applicant's license, if issued; and a copy of the full face photograph shall be filed with the application;~~

~~11~~10. If using a for-hire transportation services company's approved color scheme and name, a letter from the for-hire transportation services company which indicates the applicant is authorized to operate a for-hire vehicle using the for-hire transportation services company's approved color scheme and name;

~~12~~11. If affiliating as a for-hire driver to a TNC, a letter or documentation from the TNC which indicates the applicant is authorized to affiliate to the TNC and to use their app and that all for-hire driver requirements outlined in this chapter have been met; and

~~13~~12. Such other information as may be reasonably required by regulation promulgated under this chapter.

B. All applications for for-hire driver's licenses become void if the applicant, for any reason other than delay caused by the City, fails or neglects to complete the application process or obtain a license within sixty (60) days of submitting an application.

(Ord. 28349 Ex. A; passed Mar. 8, 2016: Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.280 For-hire driver – Training ~~program~~course.

A. Upon initial application all for-hire driver applicants are required to complete a for-hire driver training ~~program~~course approved by the Director.

B. For-hire driver training ~~programs~~ courses may be completed through a City of Tacoma offered class, a third party vendor approved by the Director or through a Director-approved for-hire transportation services company ~~program~~course. The for-hire driver may be required to pay a fee, as determined by the Director, third party vendor, or for-hire transportation services company, for the training ~~program~~ course.

C. Content for all training ~~program~~courses must be submitted for approval as required by the Director. For-hire driver training ~~program~~courses shall include but not be limited to:

1. Information about defensive driving, use of emergency procedures and equipment for the for-hire driver's personal safety, risk factors for crimes against for-hire drivers, enhancement of for-hire driver/passenger relations and professional conduct and communication skills; and

2. Completion of the National Safety Council Defensive Driving Course or other defensive driving course approved by the Director.

D. The Director may request a for-hire driver to take a refresher course if there are reasonable grounds, based on documented complaints and/or violations to require a refresher course.

(Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.300 For-hire driver – Standards for license denial; Appeal.

A. The Director shall deny any for-hire driver's license application if the Director determines that such license should not be issued pursuant to the provisions of 6B.10 of the Tacoma Municipal Code or further determines that the applicant:

1. Has made any material misstatement or omission in the application for a license;

2. Fails to meet any of the requirements of a for-hire driver contained in Subsections 6B.220.250, 6B.220.260, 6B.220.270, 6B.220.280 or 6B.220.290;

3. Has had a bail forfeiture, conviction, or other final adverse finding for offenses pertaining to hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, driving under the influence of alcohol or controlled substances, or related offense as in RCW 46.61.502, RCW 46.61.503 RCW 46.61.504 or anyone found to be a Habitual Traffic Offender by the Washington State Department of Licensing, within three (3) years of the date of application;

4. Has been convicted of a "Sex offense" or "Kidnapping" offense against a minor pursuant to RCW Title 9 or 9A or another state's similar statute; or

5. Is required to register as a sex offender pursuant to RCW 9A.44.130 or another state's similar statute.

B. The Director may deny any for-hire driver license application if the Director determines that the applicant:

1. Has had a bail forfeiture, conviction or other final adverse finding involving offenses pertaining to prostitution, gambling, physical violence, or other offenses directly related to the applicant's honesty, integrity, or moral turpitude including but not limited fraud, larceny, burglary, extortion, delivery, possession with intent, or manufacture of controlled substances or any attempt, conspiracy, or solicitation to commit such offenses, and/or any other offense directly related to the driver's ability to operate a for-hire vehicle, including without limitation to driving under the influence of alcohol or controlled substances or related offense as in RCW 46.61.502, RCW 46.61.503 or RCW 46.61.504 hit-and-run, reckless driving, attempting to elude a police officer, vehicular assault, vehicular homicide, anyone found to be a Habitual Traffic Offender by the Washington State Department of Licensing, provided that such bail forfeiture or conviction was within ten (10) years of the date of application; or

2. Has been found, either through a criminal conviction, bail forfeiture, or other final adverse finding (including in a civil suit or administrative proceeding), or it has been proven by a preponderance of the evidence regardless of whether the same act was charged as a civil infraction, crime, or not charged or cited at all to have exhibited past conduct in driving or operating a for-hire vehicle that causes the Director reasonably to conclude that the applicant will not comply with the provisions of the chapter related to driver/operator conduct and the safe operation of the vehicle.

C. Denial of issuance of a for-hire driver license is subject to appeal pursuant to 6B.10 of the Tacoma Municipal Code.

(Ord. 28251 Ex. A; passed Sept. 30, 2014)

6B.220.320 For-hire driver – Operating standards.

A. A for-hire driver shall not operate a for-hire vehicle without first obtaining and maintaining a valid for-hire driver's license and shall ensure ~~ing~~ that their City issued for-hire license identification card is in the vehicle and available for display upon request by a passenger or City official or a TNC driver is able to display their active TNC app upon request by a passenger or City official.

B. No for-hire driver whose license has been revoked by the Director shall apply for a new license for one (1) year from the effective date of such revocation.

C. A for-hire driver shall not operate a for-hire vehicle, before ensuring that the for-hire license plate is securely affixed to the vehicle or the for-hire vehicle endorsement is prominently displayed on the rear of the vehicle and, vehicle registration and proof of insurance card are in the vehicle.

D. A for-hire driver shall not operate a for-hire vehicle, before checking vehicle equipment, including but not limited to the lights, brakes, tires, steering, seat belts and other vehicle equipment to see that they are working properly.

E. A for-hire driver shall not operate a for-hire vehicle unless the interior and the exterior of the for-hire vehicle are clean and in good repair.

F. A for-hire driver shall not transport more passengers than the number of seat belts available nor more luggage than the for-hire vehicle capacity will safely and legally allow.

G. A for-hire driver shall allow the Director to inspect the for-hire vehicle without notice at any reasonable time or place while operating a for-hire vehicle.

H. A for-hire driver shall not sleep in the for-hire vehicle while operating a for-hire vehicle.

I. When using the taximeter to determine the fare to be charged, a for-hire driver must activate the taximeter at the beginning of each trip and deactivate the taximeter upon completion of the trip. Beginning of a trip means the point where the passenger is seated and the forward motion of the vehicle

begins. It shall be the duty of the for-hire driver to call the attention of passengers to the amount registered and the for-hire vehicle flag shall be placed in a non-recording position until the fare is paid. No other or different fare shall be charged to the passenger than is recorded on the reading face of said taximeter for the trip.

J. No for-hire driver of a for-hire vehicle using a taximeter, while carrying passengers or otherwise in service, shall display the signal affixed to the taximeter in such a position as to denote such vehicle is not in service.

K. A for-hire driver shall assure when using a taximeter that the meter reading is visible from a normal passenger position at all times.

L. A for-hire driver shall not operate a for-hire vehicle that does not have the rate(s) displayed in writing, or otherwise provided in an application dispatch service or for-hire transportation services company's website explaining the rate structure and is transparent to the rider prior to accepting the ride.

(Ord. 28349 Ex. A; passed Mar. 8, 2016: Ord. 28251 Ex. A; passed Sept. 30, 2014)