



Legislation Passed September 25, 2018

The Tacoma City Council, at its regular City Council meeting of September 25, 2018, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

Resolution No. 40110

A resolution setting Thursday, November 1, 2018, at 1:30 p.m., as the date for a hearing by the Hearing Examiner on the request to vacate a portion of North 30th Street, abutting and adjacent to commercial property located at 2301 North 30th Street, to cure a permitted encroachment of the structure. (Connelly Family Properties, LLC; File No. 124.1392)
[Ronda Cornforth, Senior Real Estate Specialist; Kurtis D. Kingsolver, P.E., Director, Public Works]

Resolution No. 40111

A resolution reappointing Donna LaFrance to the Library Board of Trustees to serve a five-year term to expire on October 6, 2023.
[Mayor Woodards]

Resolution No. 40112

A resolution receiving the Affordable Housing Action Strategy to guide enhancement of existing policies and programs, identification and deployment of additional funding, and development of strong anti-displacement measures to stabilize existing residents.
[Daniel Murillo, Housing Division Manager; Jeff Robinson, Director, Community and Economic Development]

Resolution No. 40113

A resolution authorizing the execution of an Intergovernmental Agreement with the Port of Tacoma and the Puyallup Tribe regarding cost sharing for the Tideflats Subarea planning process, and directing the City Manager to work with the City of Fife, Pierce County, Port of Tacoma, and the Puyallup Tribe, to develop a mutually satisfactory subarea planning and approval process, no later than 60 days after the agreement is signed by all indicated parties.
[Mayor Woodards]

Ordinance No. 28529

An ordinance amending Chapters 6A.10 and 6B.10 of the Municipal Code, relating to General Tax and License Provisions, to increase the effectiveness of the licensing revocation options and to add a conditional business license provision.
[Danielle Larson, Tax and License Manager; Andy Cherullo, Director, Finance]

Ordinance No. 28530

An ordinance amending Chapter 8.30A of the Municipal Code, relating to Chronic Public Nuisance, to increase the effectiveness and viability of the Code in relation to chronic nuisance properties.

[Keith Echterling, Assistant City Attorney; Bill Fosbre, City Attorney]



RESOLUTION NO. 40110

1 A RESOLUTION relating to the vacation of City right-of-way; setting Thursday,
 2 November 1, 2018, at 1:30 p.m., as the date for a hearing before the City
 3 of Tacoma Hearing Examiner on the petition of Connelly Family
 4 Properties, LLC to vacate a portion of North 30th Street, abutting and
 adjacent to commercial property addressed as 2301 North 30th Street, in
 order to cure a permitted encroachment of the structure.

5 WHEREAS Connelly Family Properties, LLC, having received the consent
 6 of the owners of more than two-thirds of the properties abutting that portion of
 7 North 30th Street, abutting and adjacent to commercial property addressed as
 8 2301 North 30th Street, has petitioned for the vacation of the following legally
 9 described right-of-way area:
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11 That portion of North 30th Street described as follows:

12 Commencing at the Southeast corner of Block 6, Map of Tacoma
 13 City, according to the Plat thereof recorded in Volume 1 of Plats,
 14 Page 10, in Pierce County, Washington; Thence South 89°40'51"
 15 West, along the Northerly margin of North 30th Street and the
 16 Southerly line of said Block 6, a distance of 3.06 feet to the True
 17 Point of Beginning; Thence continuing South 89°40'51" West a
 18 distance of 47.26 feet; Thence South 00°54'55" West a distance
 of 3.69 feet; Thence South 89°47'34" East a distance of 43.44 feet;
 Thence North 43°18'24" East a distance of 5.65 feet to the True
 Point of Beginning.

19 All situate in the City of Tacoma, County of Pierce, State of
 20 Washington; within the Southeast Quarter of the Southeast
 21 Quarter of Section 30, Township 21 North, Range 03 East of
 the Willamette Meridian.

22 Now, Therefore,

23 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

24 Section 1. That Thursday, November 1, 2018, at 1:30 p.m., is hereby fixed
 25 as the date and time, and the Council Chambers on the first floor of the Tacoma
 26



1 Municipal Building, 747 Market Street, in the City of Tacoma, as the place when
 2 and where the request of Connelly Family Properties, LLC to vacate a portion of
 3 North 30th Street, abutting and adjacent to commercial property addressed as
 4 2301 North 30th Street, in order to cure a permitted encroachment of the
 5 structure, will be heard by the Hearing Examiner and his recommendations
 6 thereafter transmitted to the Council of the City of Tacoma.
 7

8 Section 2. That the Clerk of the City of Tacoma shall give proper notice of
 9 the time and place of said hearing.
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11 Adopted _____
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13 _____
 14 Attest: Mayor

15 _____
 16 City Clerk

17 Approved as to form: _____ Property description approved:
 18

19 _____
 20 Deputy City Attorney Chief Surveyor
 21 Public Works Department

22 Location: A portion of North 30th Street, abutting and adjacent to commercial
 23 property addressed as 2301 North 30th Street
 24 Petitioner: Connelly Family Properties, LLC
 25 File No.: 124.1392
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RESOLUTION NO. 40111

1 BY REQUEST OF MAYOR WOODARDS

2 A RESOLUTION relating to committees, boards, and commissions; reappointing
3 an individual to the Board of Trustees for the Tacoma Public Library.

4 WHEREAS a vacancy exists on the Board of Trustees for the Tacoma
5 Public Library, and

6 WHEREAS, under Tacoma City Charter Section 2.4, appointments may be
7 made by a majority vote of the City Council from names presented in writing to the
8 City Council by the Mayor, and

9 WHEREAS the Mayor has nominated Donna LaFrance to serve on the
10 Board of Trustees for the Tacoma Public Library for a five-year term beginning
11 October 6, 2018, through October 5, 2023; Now, Therefore,

12 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

13 That Donna LaFrance is hereby reappointed to serve on the Board of
14 Trustees for the Tacoma Public Library for a five-year term beginning October 6,
15 2018, through October 5, 2023, and until a successor is appointed.

16 Adopted _____

17 _____
18 Mayor

19 Attest: _____

20 _____
21 City Clerk

22 Approved as to form: _____

23 _____
24 City Attorney



RESOLUTION NO. 40112

1 A RESOLUTION relating to affordable housing; receiving the Affordable Housing
2 Action Strategy for the City of Tacoma, to guide enhancement of existing
3 policies and programs, identification and deployment of additional funding,
4 and development of strong anti-displacement measures to stabilize existing
5 residents.

6 WHEREAS the City lacks sufficient affordable, safe, sanitary, and high-
7 quality homes for all of its residents, and

8 WHEREAS nearly 33,000 households in the City currently pay at least
9 30 percent of their income on housing costs each month, reducing their ability to
10 pay for other necessities, and

11 WHEREAS the greatest need is among households with the lowest incomes
12 and, in some cases, with the highest barriers to accessing housing opportunities,
13 and

14 WHEREAS the City has a strong legacy of working to solve its affordable
15 housing challenges; however, it recognizes the need for a more comprehensive
16 approach to its housing investments, both today and in the future, and

17 WHEREAS the City contracted with Enterprise Community Partners, BERK
18 Consulting, and Frances Wang to develop a comprehensive strategy to tackle
19 affordable housing issues over the next ten years, and

20 WHEREAS, to inform this process, the City convened a Technical Advisory
21 Group of key stakeholders; conducted community outreach, to include one-on-one
22 discussions with those experiencing housing challenges, as well as focus groups
23 and listening sessions; and reviewed data sources, and
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1 WHEREAS the Affordable Housing Action Strategy (“AHAS”) represents the
2 City’s strategic approach to a changing housing market, increased displacement
3 pressure among residents, and widespread need for high-quality, affordable
4 housing opportunities for all, and focuses on enhancing existing policies and
5 programs to serve more people by identifying and deploying additional funding and
6 establishing strong anti-displacement measures to stabilize existing residents, and

7 WHEREAS the AHAS will promote this through the implementation of four
8 strategic objectives: (1) creating more homes for more people; (2) keeping
9 housing affordable and in good repair; (3) helping people stay in their homes and
10 communities; and (4) reducing barriers for people who often encounter them, and

11 WHEREAS each strategic objective is supported by a set of actions and
12 implementation steps, and

13 WHEREAS targets and associated levels of investment were broadly
14 estimated for each strategic objective and are intended to guide public investments
15 in housing activities, and

16 WHEREAS the City will track and report its progress along three key metrics:
17 (1) number of units produced; (2) number of units preserved; and (3) number of
18 households served, and

19 WHEREAS, through implementation of the AHAS over the next ten years,
20 the City will strive to dramatically increase its investments in new rental and
21 homeownership opportunities and establish broader anti-displacement measures,
22 including preserving affordable units at risk of converting to market-rate rent, and
23 create comprehensive protections for renters; together, this approach will have the
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potential to produce 6,000 new affordable units; preserve 2,300 existing affordable units; and serve an additional 2,200 households by 2028, and

WHEREAS the AHAS contains a series of recommendations that call for a large investment of public, philanthropic, and private resources totaling as much as \$70 million over the next ten years, and

WHEREAS City staff provided the City Council with updates on the progress of the AHAS at its April 10, June 12, and July 24, 2018, Study Sessions; Now,

Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Council hereby receives the Affordable Housing Action Strategy for the City of Tacoma, substantially in the form of the document on file in the office of the City Clerk, to guide enhancement of existing policies and programs, identification and deployment of additional funding, and development of strong anti-displacement measures to stabilize existing residents.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



RESOLUTION NO. 40113

1 BY REQUEST OF MAYOR WOODARDS AND COUNCIL MEMBERS McCARTHY
2 AND MELLO

3 A RESOLUTION relating to zoning; authorizing the approval of an
4 Intergovernmental Agreement concerning cost sharing for the Tideflats
5 Subarea planning, and directing the City Manager to work with the indicated
6 partners to develop a mutually satisfactory subarea planning and approval
7 process no later than 60 days after the agreement is signed by all parties.

8 WHEREAS the Tacoma Tideflats area is of great significance to the City,
9 Puyallup Tribe ("Tribe"), Port of Tacoma ("Port"), and Pierce County ("County"), as
10 well as the entire region and state, for reasons of economics, employment, and the
11 preservation and protection of natural and cultural resources, and

12 WHEREAS the Tideflats area is one of nine designated Manufacturing
13 Industrial Centers in the Puget Sound Regional Council's regional development
14 plan, VISION 2040, and

15 WHEREAS the State Growth Management Act requires that local
16 comprehensive plans comply with VISION 2040, and directs local jurisdictions
17 having one or more regionally designated centers to prepare a subarea plan for
18 each such center, and

19 WHEREAS the 1990 Land Claims Settlement requires the City to consult
20 with the Tribe on land use matters such as the Tideflats Subarea Planning
21 process; additionally, the Port Container Element statute (RCW 36.70A.085)
22 requires a level of collaboration between the City and Port on land use planning
23 within the Port area, and
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1 WHEREAS, on May 9, 2017, the City Council adopted Amended Resolution
2 No. 39723, initiating a subarea planning process for the Port of Tacoma/Tideflats
3 area; since that time, the City has been in discussions with the Port and Tribe
4 regarding an agreement that would outline the project partnership, including roles,
5 responsibilities, and funding for the project, and

6 WHEREAS, as part of these discussions, Mayor Woodards convened the
7 Port, Tribe, and County in a public meeting on September 10, 2018, where an
8 Intergovernmental Agreement ("Agreement") among the Port, City and Tribe
9 concerning cost sharing for the subarea plan in the Tacoma Tideflats area was
10 refined, and
11

12 WHEREAS a subarea plan will allow for the establishment of a shared,
13 long-term vision and a more coordinated approach to development, environmental
14 review, and strategic capital investments in a focused area, and
15

16 WHEREAS the completion of a subarea plan will support the ongoing
17 eligibility for and prioritization of transportation funding in the Port of Tacoma
18 Manufacturing/Industrial Center, and

19 WHEREAS the parties acknowledge that a well-developed plan for the
20 Tideflats will provide mutual benefit, and desire to share in the plan costs, and
21

22 WHEREAS the proposed Agreement is contingent on development of a
23 mutually satisfactory subarea planning and approval process ("Work Plan") no later
24 than 60 days after the agreement is signed by all parties, and the Work Plan will
25 include, at a minimum, a timeline, budget, deliverables, and an input/outreach
26 process, and



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WHEREAS the proposed Agreement replaces the ILA previously discussed by the Port and Tribe, and will spur the creation of a mutually agreeable Work Plan for moving forward on the planning process for the Tideflats Subarea Plan, and

WHEREAS the proposed Agreement proposes that the City and the Port each provide funding in an amount up to \$500,000, and the Tribe provide funding in an amount up to \$200,000, for a total of up to \$1,200,000, for a subarea process and plan that meets the requirements of the Puget Sound Regional Council and the Growth Management Act, and

WHEREAS the City Council has already approved the City's portion of this partnership funding pursuant to Substitute Ordinance No. 28427, passed May 9, 2017; expenditures and revenues are anticipated to occur in the 2019-2020 biennium, and

WHEREAS the proposed Agreement was presented as a discussion item at the Study Session of September 18, 2018; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section. 1. That the proper officers of the City are hereby authorized to enter into an Intergovernmental Agreement with the Puyallup Tribe and Port of Tacoma concerning cost sharing for the Tideflats Subarea planning process, said document to be substantially in the form of the agreement on file in the office of the City Clerk.

Section 2. That the City Manager is hereby directed to work with the Puyallup Tribe, Port of Tacoma, City of Fife, and Pierce County to develop a



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mutually satisfactory subarea planning and approval process no later than 60 days after the Intergovernmental Agreement is signed by all parties.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



ORDINANCE NO. 28529

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

4 WHEREAS the Business License Code reasons for revocation and
5 suspension of a license have been too limiting in some situations, not allowing the
6 City to take action that would resolve the issue; additionally, the code does not
7 provide for an option to issue a conditional business license, and
8

9 WHEREAS staff is recommending comprehensive revisions to Tacoma
10 Municipal Code (TMC”) 6A.10, “General Tax Provisions,” and TMC 6B.10,
11 “General License Provisions,” to establish a stronger enforcement process and
12 shorter timelines, and
13

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

BE IT ORDAINED BY THE CITY OF TACOMA:

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

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

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

**Chapter 6A.10
GENERAL TAX PROVISIONS**

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Sections:

- 6A.10.010 Purpose.
- 6A.10.015 Application of chapter.
- 6A.10.020 Tax definitions.
- 6A.10.021 Definition – References to Chapter 82.32 RCW
- ~~6A.10.030 Registration/license requirements.~~
- 6A.10.040 ~~When due and payable~~ Reporting periods – ~~Monthly, quarterly, and annual returns~~ Due dates – ~~Filing requirements~~ – Threshold provisions ~~or relief from filing requirements~~ – ~~Computing time periods~~ – Failure to file returns.
- 6A.10.050 ~~Payment methods~~ ~~Mailing~~ Filing returns or remittances – ~~Time extension~~ – ~~Deposits~~ – ~~Recording payments~~ – ~~Payment must accompany return~~ – NSF checks.
- 6A.10.060 Records to be preserved – Examination – Estoppel to question assessment.
- 6A.10.070 Accounting methods.
- 6A.10.080 Public work contracts – Payment of ~~fee and~~ tax before final payment for work.
- 6A.10.090 Underpayment of tax, interest, or penalty – Interest.
- 6A.10.095 Time in which assessment may be made.
- 6A.10.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.
- 6A.10.110 Late payment – Disregard of written instructions – Evasion – Penalties.
- 6A.10.120 Cancellation of penalties.
- 6A.10.125 Voluntary registration.
- 6A.10.130 Taxpayer quitting business – Liability of successor.
- 6A.10.140 ~~Administrative a~~ Appeal.
- 6A.10.150 Judicial review.
- 6A.10.160 Director to make rules.
- 6A.10.170 Ancillary allocation authority of Director.
- 6A.10.180 ~~Mailing~~ Service of notices.
- ~~6A.10.190 Tax declared additional.~~
- 6A.10.200 Public disclosure – Confidentiality – Information sharing.
- ~~6A.10.210 Tax constitutes debt.~~
- 6A.10.220 Unlawful actions – Violation – Penalties.
- ~~6A.10.230 Suspension or revocation of business registration.~~
- 6A.10.240 ~~Closing~~ Settlement agreement provisions.
- 6A.10.250 Charge-off of uncollectible taxes.
- 6A.10.260 Severability.

* * *

6A.10.020 Tax definitions.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “Reporting period” means:

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

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



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

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

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

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

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

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

7 **6A.10.021 Definitions – References to Chapter 82.32 RCW**

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

11 ~~6A.10.030 Registration/license requirements~~

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

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

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

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

22 ~~A. Other than any annual license fee or registration fee assessed under this title, tThe tax imposed by this
23 chapter subtitle shall be due and payable in quarterly installments. At the Director’s discretion, businesses
24 may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax.~~

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

* * *

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

6 F. If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(~~67~~), as it now exists or as it may be amended.

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

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

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

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

11 * * *

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

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

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

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

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



6A.10.140 Administrative Appeal.

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

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

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

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

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

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

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

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

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

6A.10.150 Judicial review.

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

* * *

6A.10.180 Mailing Service of notices.

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

6A.10.190 Tax declared additional.

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



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

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

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

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

* * *

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

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

6A.10.220 Unlawful actions – Violation – Penalties.

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

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

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

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

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



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

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

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

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

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

6A.10.240 Closing Settlement agreement provisions.

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

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

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

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EXHIBIT "B"

**Chapter 6B.10
GENERAL LICENSE PROVISIONS**

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Sections:

- 6B.10.010 Subtitle designated as License Code.
- 6B.10.020 Application of chapter.
- 6B.10.030 License definitions.
- 6B.10.040 License required.
- 6B.10.045 Exemptions for preapproval.
- 6B.10.050 Separate licenses – When required.
- 6B.10.060 Application for license—~~Approval or denial~~—Appeal.
- 6B.10.070 Term of license.
- 6B.10.075 Director to make rules.
- 6B.10.080 Due date.
- 6B.10.090 Renewal of license – Late payment—~~Renewal of license~~.
- 6B.10.095 Cancellation of penalties.
- ~~6B.10.100 Method of payment.~~
- 6B.10.105 Advertising unlicensed premises.
- 6B.10.110 Posting or carrying of license.
- 6B.10.115 Hours of operation – Massage.
- 6B.10.117 Unlicensed practice – Massage – Penalties.
- 6B.10.120 ~~Mailing Service~~ of notices.
- 6B.10.130 Failure to file.
- 6B.10.140 ~~Denial or Suspension or~~ revocation – Appeal.
- 6B.10.145 Summary suspension – Appeal.
- ~~6B.10.150 Statute of limitations—Unlicensed licensees.~~
- 6B.10.160 Refund of license fee.
- ~~6B.10.170 Grounds for disqualification of licensees.~~
- 6B.10.180 Inspection.
- 6B.10.190 Investigations and background checks.
- 6B.10.195 Public work contracts – Payment of license fee before final payment for work.
- 6B.10.200 Death of licensee – Continuation of license.
- ~~6B.10.210 Notice of right to suspend or revoke.~~
- 6B.10.220 ~~Assignment~~Transfer of licenses.
- ~~6B.10.230 Licenses subject to specific controls.~~
- 6B.10.240 Engaging in activity without license – Penalty.
- 6B.10.245 License constitutes debt.
- 6B.10.250 Separate offenses.
- 6B.10.255 Charge-off of uncollectible fees.
- 6B.10.257 Closing agreement provisions.
- 6B.10.260 Violations – Penalties.
- 6B.10.262 Cancellation of civil penalties.
- 6B.10.265 Administrative reviews by the director of Notice of Penalty – Appeal.
- 6B.10.268 Additional relief.
- 6B.10.270 Severability.

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6B.10.030 License definitions

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

16 * * *

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

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

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

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

25 * * *

26



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

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

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

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

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

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

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

24 * * *

25 **6B.10.100 Method of payment.**

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

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

36 **6B.10.105 Advertising unlicensed premises.**

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

43 * * *

44 **6B.10.120 Mailing Service of notices.**

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



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

1 **6B.10.130 Failure to file.**

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

4 **6B.10.140 SuspensionDenial or revocation – Appeal.**

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

7 1. ~~The registration was procured by fraud or false representation of fact, including, but not limited to, the
8 existence of owners who were not identified on the application.~~

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

9 3. ~~The licensee has failed to comply with any provisions of the TMC.~~

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

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

12 6. ~~Licensee's continued conduct of the business for which the license or registration was issued will result in
13 a danger to the public health, safety, or welfare by reason of any of the following:~~

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

16 b. ~~The licensee, or his/her agents or employees, have in the conduct of the business, violated any local, state,
17 or federal law relating to public health or safety.~~

17 c. ~~The conduct of the business for which the license or registration was issued has resulted in the creation of a
18 public nuisance as defined in the TMC or in state law.~~

18 d. ~~The tolerance of a public nuisance or criminal activity, as defined in local, state, or federal law, for which
19 the business owner or operator can reasonably control or prevent.~~

19 7. ~~For any reason that would justify denial or disqualification of a license under Section 6B.10.170.~~

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. the applicant being a minor,

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



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

1 C. Notice.

2 1. The Director shall notify such licensee in writing by first-class mail or hand delivery of the denial or
revocation of the license and the grounds therefor.

3 2. Denial of a license application under this subsection shall take effect immediately upon the mailing or hand
delivery of the denial notice, as if no license was issued.

4 3. Revocation of a license issued shall not take effect until ten days after the mailing or hand delivery of the
revocation notice and, if appeal is taken as outlined, the revocation shall be stayed pending final action by the
Hearing Examiner. A licensee shall surrender all licenses issued by the City on the effective date of such
revocation.

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

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

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

16 **6B.10.145 Summary suspension – Appeal.**

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

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

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



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

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

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

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

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

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

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

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

~~6B.10.150 Statute of limitations — Unlicensed licensees.~~

~~With regard to unlicensed licensees, no assessment or correction of an assessment for additional fees and penalties may be made due by the Director more than four years after the close of the calendar year, except upon showing of the licensee's failure to file a license application as and when required under this chapter, which failure to file a license application resulted from the licensee's willful and fraudulent intent to avoid payment of the required fees.~~

~~***~~

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

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



A. Any minor under 18 years of age.

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

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

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

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

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

D. The Director may deny a license if:

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

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

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

6B.10.180 Inspection.

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

6B.10.190 Investigations and background checks.

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

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

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

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



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

~~***~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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6B.10.250 Separate offenses.

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

6B.10.260 Violations – Penalties.

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

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

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

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

D. Penalties: main procedural requirements.

1. The City shall give notice of the penalty.

2. The notice shall state-

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

(b) the amount of the penalty;

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

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

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

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

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

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

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

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

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

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

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

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

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

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



6B.10.262 Cancellation of civil penalties.

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

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ORDINANCE NO. 28530

1 AN ORDINANCE relating to chronic nuisance properties; repealing and reenacting
2 Chapter 8.30A of the Tacoma Municipal Code, entitled “Chronic Public
3 Nuisance,” to increase the effectiveness and viability of the code in relation
4 to chronic nuisance properties.

4 WHEREAS the Chronic Public Nuisance Code (“Code”), codified as
5 Chapter 8.30A of the Tacoma Municipal Code (TMC”), was established in 2003
6 with the intent to protect the health, safety, and welfare of the public, and
7

8 WHEREAS the Code was designed to address both residential and
9 commercial properties that consume a disproportionate amount of City resources
10 due to criminal conduct and impact on neighboring properties; however, successful
11 application of the Code has proven to be cumbersome, lengthy, or ineffective and,
12 as a result, has been used minimally over the years, and
13

14 WHEREAS staff is recommending a comprehensive revision of the Code to
15 establish a stronger enforcement process and shorter timelines, and
16

16 WHEREAS the proposed Code amendments include the following:
17 (1) expansion of when a property will meet the definition of a “chronic nuisance
18 property”; (2) additional violations in the definition of “nuisance activity”; (3) a
19 required Correction Agreement; (4) additional enforcement options for non-
20 compliance; and (5) a streamlined administrative process, and
21

22 WHEREAS, on June 14, 2018, the proposed Code amendments were
23 presented to the Community Vitality and Safety Committee, and
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25 WHEREAS the proposed Code amendments were presented to the City
26 Council at its Study Session on August 14, 2018; Now, Therefore,



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BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 8.30A of the Tacoma Municipal Code is hereby repealed and reenacted as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

**Chapter 8.30A
CHRONIC PUBLIC NUISANCE**

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~~Sections:~~

- ~~8.30A.010 Scope.~~
- ~~8.30A.020 Purpose.~~
- ~~8.30A.030 Chronic nuisance property defined.~~
- ~~8.30A.040 Definitions.~~
- ~~8.30A.050 Violation.~~
- ~~8.30A.060 Process.~~
- ~~8.30A.070 Administrative reviews by the Director.~~
- ~~8.30A.080 Appeals to the Hearing Examiner.~~
- ~~8.30A.090 Abatement.~~
- ~~8.30A.100 Judicial action.~~
- ~~8.30A.110 Additional relief.~~
- ~~8.30A.120 Summary closure.~~
- ~~8.30A.130 Collection of judgments.~~
- ~~8.30A.131 Successive owners liable.~~
- ~~8.30A.132 Chronic nuisance does not become legal by prescription.~~
- ~~8.30A.140 Severability.~~

~~8.30A.010 Scope.~~

~~This chapter addresses chronic nuisance properties that are in violation of various chapters of the Tacoma Municipal Code ("TMC") and continue to be unresolved by normal compliance methods therefore resulting in the necessary enactment of the provisions of this chapter. Chronic nuisance properties present grave health, safety, and welfare concerns, which the property owners or persons in charge of such properties have failed in taking corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety, and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for abatement; and this remedy is not exclusive. Any remedy available under any state or local laws may be used in lieu of or in conjunction with the remedies under this chapter.~~

~~Also, chronic nuisance properties are a financial burden to the City by the repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such properties, and this chapter is a means to ameliorate those conditions and hold responsible the owners or persons in charge of such properties.~~

~~8.30A.020 Purpose.~~

~~The purpose of this chapter is to protect the health, safety, and welfare of the residents of the general public by:~~

- ~~A. Establishing standards for reducing criminal activity and improving building condition.~~
- ~~B. Working in cooperation with property owners to develop a plan of action to accomplish these goals.~~
- ~~C. Monitoring a plan of action to ensure the reduction of calls for service and building conditions improvements are sustained.~~
- ~~D. Establishing due process by which property owners can appeal decisions if necessary.~~
- ~~E. Establishing civil penalties for failure to comply with the plan of action.~~
- ~~F. Establishing a judicial process to abate properties if necessary.~~



~~8.30A.030 Chronic nuisance property defined:~~

~~A chronic nuisance property exists as a result of a property owner omitting to perform a duty or permitting an action or condition to occur or exist which intrudes on the ability of neighbors or citizens to use or enjoy their properties or public property adjacent to where the nuisance occurs. Such chronic nuisance properties include, but are not limited to:~~

~~A. Properties on which three or more nuisance activities occur or exist within any 60-day period. Nuisance activities include, but are not limited to, violation of the following laws and regulations:~~

~~TMC 3.12 Fireworks;~~

~~TMC 8.12 Disorderly Conduct;~~

~~TMC 8.13 Obstructing Pedestrians or Traffic;~~

~~TMC 8.20 Intoxicating Liquor;~~

~~TMC 8.28 Narcotics;~~

~~TMC 8.29 Drug Paraphernalia;~~

~~TMC 8.30 Nuisances;~~

~~TMC 8.32 Indecent Acts;~~

~~TMC 8.33 Urinating in Public;~~

~~TMC 8.46 Prostitution;~~

~~TMC 8.60 Unlawful Assembly;~~

~~TMC 8.66 Weapons;~~

~~TMC 8.67 Firearms;~~

~~TMC 8.72 Drug-related Loitering;~~

~~TMC 8.100 Gambling;~~

~~TMC 8.105 Domestic Violence;~~

~~TMC 8.106 Harassment;~~

~~TMC 8.108 Parking in Congested Areas;~~

~~TMC 8.109 Curfew Hours for Minors;~~

~~TMC 8.120 Graffiti;~~

~~TMC 8.122 Noise;~~

~~TMC 8.140 Regulation of Purchase/Sale of Ephedrine;~~

~~TMC 12.09 Solid Waste, Recycling and Hazardous Waste;~~

~~TMC 17 Animal Control;~~

~~International Fire Code;~~

~~Any similar violation of the Revised Code of Washington or the United States Code;~~

~~Gang-related activity, as defined in RCW 59.18.030; and~~

~~Alcoholic beverage control violations, as defined in RCW 66.44.~~

~~Any attempt to commit and/or conspiracy to commit any of the above activities, behaviors, or conduct shall also be considered a nuisance activity.~~

~~8.30A.040 Definitions:~~

~~For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:~~

~~1. "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City department director, or designee, determines is necessary in the interest of the general health, safety, and welfare of the community.~~

~~2. "Control" means the ability to regulate, restrain, dominate, counteract, or govern property or conduct that occurs on a property.~~



1 3. "Director" shall include, but not be limited to, the chiefs of the Police Department or Fire Department, or directors of the Public Works Department, Finance Department, or Health Department. The director of the department may designate an individual to act in his or her stead.

2 4. "Drug related activity" means any unlawful activity at a property which consists of the unlawful
3 manufacture, delivery, sale, storage, possession, or giving away of any controlled substance, as defined in
4 RCW 69.50; illegal drug, as defined in RCW 69.41; precursor drug, as defined in RCW 69.43; or
5 imitation controlled substances, as defined in RCW 69.52.

6 5. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a
7 part, and, in addition, means any person designated as a representative of the landlord.

8 6. "Owner" means any person having any interest in the real estate in question as indicated in the records
9 of the office of the Pierce County Assessor, or who establishes, under this chapter, their ownership
10 interest therein.

11 7. "Person" means natural person, joint venture, partnership, association, club, company, corporation,
12 business trust, or organization or the manager, lessee, agent, officer, or employee of any of them. "Person
13 associated with a property" means any person who, on the occasion of a nuisance activity, has entered,
14 patronized, or visited, or attempted to enter, patronize, or visit, or waited to enter, patronize, or visit a
15 property or a person present on property, including, without limitation, any officer, director, customer,
16 agent; or employee, or any independent contractor of a property; or a person in charge of or owner of a
17 property.

18 8. "Person in charge" of a property means any person, in actual or constructive possession of a property,
19 including, but not limited to, an owner, occupant, agent, or property manager of a property under his or
20 her control.

21 9. "Premises" and "property" may be used by this chapter interchangeably and means any building, lot,
22 parcel, dwelling, rental unit, real estate, or land, or portion thereof, including property used as residential
23 or commercial property.

24 10. "Receiver" is a person appointed by a court or judicial officer to take charge of a property during the
25 pending of a civil action or proceeding, or upon a judgment, decree, or order therein, and to manage
26 and/or dispose of it as the court or officer may direct.

11. "Rental unit" means any structure or that part of a structure, including, but not limited to, a single
family home, room, or apartment that is rented to another and used as a home, residence, or sleeping
place by one or more persons.

8.30A.050 ~~Violation.~~

A. Any property within the City that is a chronic nuisance property is in violation of this chapter and
subject to its remedies.

B. Any owner or person in charge of a chronic nuisance property shall be in violation of this chapter and
subject to its remedies. The person in charge and the owner are jointly liable for any chronic nuisance.
Both the owner and person in charge are subject to the provisions and remedies of this chapter.
Application of this chapter against one party does not preclude application to another party who is an
owner or person in charge of a chronic nuisance property.

8.30A.060 ~~Process.~~

A. The appropriate City department shall confirm the presence of a chronic nuisance property. If it is
determined that the site is not a chronic nuisance, the case will be closed.

B. If it is determined that the site is a chronic nuisance, a Notice of Violation will be sent to the owner of
the property and the person in charge of the property. The Notice of Violation shall contain:

1. The street address or a legal description sufficient for identification of the property;

2. A concise description of the nuisance activities that exist or that have occurred on the property;

3. A request that the owner or person in charge respond to the appropriate department within ten calendar
days of service of the Notice of Violation to discuss the nuisance activities and create a plan to abate the
chronic nuisance;



4. An offer to the owner or person in charge of an opportunity to abate the nuisance activities giving rise to the violation; and

5. A statement describing that if the owner and/or person in charge fails to develop or comply with a plan of action the property is subject to abatement and the owner and/or person in charge is responsible for civil penalties up to \$250 per day and that the owner and/or person in charge is responsible for the costs of municipal services after the Notice of Violation of the chronic nuisance property is received.

C. Such Notice of Violation shall be either (a) personally served or (b) delivered by first class mail and certified mail, return receipt requested, to the person in charge of the property. If the person in charge of the property is not the owner, then a copy shall be served on the owner at the address indicated by the Pierce County Assessor in the manner described above.

D. If the owner or person in charge responds, as required by the Notice of Violation, and agrees to abate the nuisance activity, the appropriate department and the person in charge and/or property owner may work out an agreed upon plan of action which would abate the nuisance activity. If the owner and person in charge are different persons or entities, then both the owner and person in charge are required agree to the plan. If an agreed upon plan of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the owner and/or person in charge of the property is subject to civil penalties, suspension or revocation of his or her business license and registration, and any other remedy provided in this chapter. Up to three community stakeholders may be called upon by the appropriate director to participate in the review, negotiation, and monitoring of the action plan. One of the community stakeholders may be recommended by the property owner.

E. The plan of action may include, but not be limited to, items such as education for the owner or person in charge of the property, physical improvements for crime prevention, security for the property, and other items necessary to abate the chronic nuisance property. The plan must include specific time frames in which items will be completed.

F. The monetary penalties for violations of this chapter shall be as follows:

1. First civil penalty \$125

2. Second and subsequent civil penalties \$250

Civil penalties will continue to accumulate until the plan of action is in place or the nuisance conditions are abated. Civil penalties may be imposed when a plan of action is in place if the owner and/or person in charge fails to adhere to the plan of action or if the chronic nuisance continues.

3. If the total assessed penalties exceed \$1,000, a Certificate of Complaint may be recorded with the Pierce County Auditor to be attached to the title of the property. A copy of the Certificate of Complaint shall be sent to the property owner and parties of interest if different from the owner.

4. If over \$1,000 in civil penalties are levied or if the property owner or person in charge fails to agree to or adhere to a plan of action, the full costs of municipal services may be charged to the owner.

G. If an owner or person in charge fails to develop or implement a plan of action or if the chronic nuisance continues, his or her business license may be suspended as follows:

1. If chronic nuisance activities continue or no plan of action is developed or implemented for thirty (30) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for seven (7) days.

2. If chronic nuisance activities continue or no plan of action is developed or implemented for sixty (60) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for fourteen (14) days.

3. If chronic nuisance activities continue or no plan of action is developed or implemented for ninety (90) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for thirty (30) days.

4. If chronic nuisance activities continue or no plan of action is developed or implemented for one hundred eighty (180) days or more after a person is served with a notice of chronic nuisance, the person's business license and registration may be suspended for one (1) year.

5. Civil penalties may continue to accumulate during the periods of suspension.



H. Each day that a property or person is not in compliance with the provisions of this chapter is a separate violation of this chapter.

I. The remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the City under another section of the municipal code or law or enforcement actions taken by a different jurisdiction.

~~8.30A.070—Administrative reviews by the Director.~~

A. General. A person, firm, or corporation to whom a Notice of Violation for a chronic nuisance(s) or a civil penalty is assessed may request an administrative review of the Notice of Violation or the civil penalty.

B. How to Request an Administrative Review. A person, firm, or corporation may request an administrative review of the Notice of Violation or for a civil penalty by filing a written request with the director of finance or his or her designee within ten calendar days of the notification date of violations or the date the civil penalty is assessed. The request shall state, in writing, the reasons the director should review the Notice of Violation or the issuance of the civil penalty. Failure to state the basis for the review, in writing, shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the director shall review the information provided.

C. Decision of the Director. After considering all of the information provided, the director shall, within three business days of the request for administrative review, determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation for the nuisance(s) or the amount of any monetary penalty assessed. The director's decision shall be either (a) personally served or (b) delivered by first class mail and certified mail, return receipt requested, to the person requesting the review, with a copy mailed to the owner or person in charge, if different from the person requesting review.

~~8.30A.080—Appeals to the Hearing Examiner.~~

A. Appeals of the director's decision shall be made in writing to the Hearing Examiner within ten calendar days of the mailing or personal service of the director's decision. The written appeal must set forth the grounds for the appeal. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of a properly filed appeal, the Hearing Examiner shall set a hearing date and the appellant shall be notified of the hearing date by either (a) personal service or (b) delivery by first class mail and certified mail, return receipt requested, to the appellant, with a copy mailed to the owner at the address indicated by the Pierce County Assessor if different than the appellant.

B. Hearings shall be conducted in accordance with TMC 1.23 and the Hearing Examiner's Rules of Procedure.

C. The Hearing Examiner shall issue a Findings of Fact and Order based on the hearing, in writing, delivered to the appellant by first class mail and certified mail, return receipt requested.

~~8.30A.090—Abatement.~~

After an enforcement action is taken and civil penalties have been assessed in excess of \$1,000, the property is subject to abatement by the City in the manner authorized by law.

~~8.30A.100—Judicial action.~~

A. The City Attorney may initiate legal action on the chronic nuisance property and seek abatement of the nuisance in Pierce County Superior Court.

B. In determining whether a property shall be deemed a chronic nuisance property and subject to the court's jurisdiction, the City shall have the initial burden of proof to show, by a preponderance of the evidence, that the property is a chronic nuisance property. The failure to prosecute an individual, or the fact no one has been convicted of a crime, is not a defense to a chronic nuisance action.

C. Once the court determines the property to be a chronic nuisance under this chapter, the court may order any relief deemed appropriate to abate the chronic nuisance activity.

D. If the court determines the property to be a chronic nuisance property, the court may order the property to be abated by the City or may order the property into a receivership, in accordance with RCW 7.60.



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~~E. Once a determination has been made by the court that the chronic nuisance property is subject to abatement, the court may authorize the City to physically abate the property. Costs for such abatement shall be submitted to the court for review. Reasonable costs of abatement may be assessed against the property owner. The City shall file a formal lis pendens notice when an action for abatement is filed in the Pierce County Superior Court.~~

~~F. If the court orders the property into a receivership, the court shall appoint a receiver and shall define the terms of the receivership based on the recommendations provided by the City.~~

~~G. Pierce County Superior Court shall retain jurisdiction during any period of closure or abatement of the property.~~

~~8.30A.110 Additional relief.~~

~~The director may seek any legal or equitable relief, such as utilization of RCW 9.66, 7.48, or 7.48A, or Chapter 8.30 TMC at any time to mitigate violations referenced in TMC 8.30A.030. The director of finance may also suspend or revoke the business license of the property owner, person in charge, or both.~~

~~8.30A.120 Summary closure.~~

~~Nothing in this chapter prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public health or safety. The City may take summary action to close the property without complying with the notification provisions of TMC 8.30A.030, but shall provide such notice as is reasonable under the circumstances.~~

~~8.30A.130 Collection of judgments.~~

~~If the person cited fails to pay a penalty imposed pursuant to this chapter, the penalty costs and costs for municipal services may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed upon between the City and the collection agency, and added to the judgment. Alternatively, the City may pursue collection in any other manner allowed by law.~~

~~8.30A.131 Successive owners liable.~~

~~Every successive owner of property, or person in charge, who neglects to abate a continuing chronic nuisance upon, or in the use of such property caused by a former owner, is liable therefor in the same manner as the one who first created it.~~

~~8.30A.132 Chronic nuisance does not become legal by prescription.~~

~~No lapse of time can legalize a chronic nuisance.~~

~~8.30A.140 Severability.~~

~~If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity of the ordinance as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.~~



Chapter 8.30A
CHRONIC PUBLIC NUISANCE

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Sections:

- 8.30A.010 Scope and purpose.
- 8.30A.020 Definitions.
- 8.30A.030 Declaration of chronic nuisance property and procedures.
- 8.30A.040 Correction agreement.
- 8.30A.050 Enforcement.
- 8.30A.060 Additional remedies.
- 8.30A.070 Appeals to the Hearing Examiner.
- 8.30A.080 Successive owners liable.
- 8.30A.090 Joint and several liability.
- 8.30A.100 Severability.

8.30A.010 Scope and purpose.

Chronic nuisance properties present grave health, safety, and welfare concerns and have a tremendous negative impact upon the quality of life, safety, and health of their neighborhoods and on those persons that live, work, visit, engage in commerce, or otherwise seek to enjoy property rights therein. Such properties are a financial burden to the City and the necessary services rendered to and at such properties often result in a disproportionate consumption of City resources. Therefore, any chronic nuisance property located in the City is in violation of this chapter and subject to its remedies. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for lawfully reducing or eliminating said activities. While the City seeks to promote cooperative and voluntary compliance, the remedies provided herein are not exclusive and the City may pursue any available option in law or equity to remedy a chronic nuisance property.

The purpose of this chapter is to protect the health, safety, and welfare of the general public by:

- A. Establishing standards and recommendations for reducing criminal activity and improving building conditions;
- B. Working in cooperation with property owners to accomplish these goals; and
- C. Establishing a framework of judicial and administrative processes against which the City can seek to alleviate chronic nuisance conditions.

8.30A.020 Definitions.

A. “Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner, and to such an extent, as the applicable City department director or designee determines is necessary in the interest of the general health, safety, and welfare of the community.

B. “Chronic nuisance property” means a property:

- 1. on which three or more nuisance activities as defined herein exist or have occurred during any 60-day period; or
- 2. on which four or more nuisance activities as defined herein exist or have occurred during any six-month period; or
- 3. on which six or more nuisance activities as defined herein exist or have occurred during any 12-month period; or
- 4. that, upon request for execution of a search warrant, has been the subject of a determination by a court two or more times within a 12-month period that probable cause exists that illegal possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Revised Code of Washington (“RCW”) 69.50, has occurred on the property; or



1 5. that the City can demonstrate by a preponderance of the evidence is the cause of nuisance activities that are
2 occurring on other property adjacent to or in proximity to the property itself, where such nuisance activities
3 occurring on such other property meet the definition of 1, 2, 3, or 4 above.

4 C. "Correction agreement" means a contract between the City and the owner and, if different than the owner,
5 the person in control of the chronic nuisance property, in which such person(s) agrees to promptly take all
6 reasonable actions, which shall be set forth in the agreement, to abate the nuisance activities within a
7 specified time and according to specified conditions.

8 D. "Director" means any City of Tacoma Department Director, or designee.

9 E. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part,
10 and, in addition, means any person designated as a representative of the landlord.

11 F. "Nuisance activity" includes a violation for any of the following:

12 1. A "most serious offense," as defined in RCW 9.94A;

13 2. "Alcoholic beverage control violations," as defined in RCW 66.44;

14 3. "Drive-by shooting," as defined in RCW 9A.36.045;

15 4. "Drug-related activity," including unlawful manufacture, delivery, sale, storage, possession, or giving
16 away of any controlled substance, as defined in RCW 69.50; illegal drugs, as defined in RCW 69.41;
17 precursor drugs, as defined in RCW 69.43; or imitation controlled substances, as defined in RCW 69.52;

18 5 "Gang-related activity," as defined in RCW 59.18.030;

19 6. "Reckless endangerment," as defined in RCW 9A.36.050;

20 7. Animal Control, Tacoma Municipal Code ("TMC") Title 17;

21 8. Assault in the Fourth Degree, TMC 8.76;

22 9. Curfew Hours for Minors, TMC 8.109;

23 10. Disorderly Conduct, TMC 8.12;

24 11. Domestic Violence, TMC 8.105;

25 12. Drug Paraphernalia, TMC 8.29;

26 13. Drug-related Loitering, TMC 8.72;

14. Fire Prevention Code, TMC 3.02;

15. Firearms, TMC 8.67;

16. Fireworks, TMC 3.12;

17. Gambling, TMC 8.100;

18. Graffiti, TMC 8.120;

19. Harassment, TMC 8.80;

20. Indecent Acts, TMC 8.32;

21. Minimum Building and Structures Code, TMC 2.01;

22. Narcotics, TMC 8.28;

23. Noise Enforcement, TMC 8.122;

24. Obstructing Pedestrians or Traffic, TMC 8.13;

25. Prostitution, TMC 8.46;

26. Public Nuisances, TMC 8.30;

27. Regulation of Purchase/Sale of Ephedrine, TMC 8.140;

28. Stay Out of Areas of Prostitution ("SOAP") Orders, TMC 8.170;

29. Stay Out of Drug Areas ("SODA") Orders, TMC 8.160;

30. Solid Waste, Recycling and Hazardous Waste, TMC 12.09;

31. Tax and License Code, TMC Title 6;

32. Unlawful Assembly, TMC 8.60;



33. Urinating in Public, TMC 8.33;

34. Weapons, TMC 8.66;

35. Any similar violation of the RCW or the United States Code;

36. Any attempt to commit and/or conspiracy to commit any of the above activities, behaviors, or conduct shall also be considered a nuisance activity.

G. “Owner” means any person having any interest in the real estate in question as indicated in the records of the office of the Pierce County Assessor, or whose ownership interest is otherwise established.

H. “Person” means natural person, joint venture, partnership, association, club, company, corporation, business trust, or organization or the manager, lessee, agent, officer, or employee of any of them.

I. “Person in control” means any person in actual or constructive possession of a property, including, but not limited to, an owner, occupant, agent, business owner, business manager, or property manager of a property under the person’s control.

J. “Property” means any building, lot, tax parcel, dwelling, rental unit, real estate, or land, or portion thereof, including property used as residential or commercial property.

K. “Service by mail” shall be deemed complete upon the third day following the day upon which the notice of violation is placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday, following the third day.

L. “Violation” means a criminal conviction, civil judgment, issuance of a civil penalty, issuance of a notice of violation, or any act or conduct which the City can establish by a preponderance of the evidence exists or has occurred regardless of whether such act resulted in a criminal charge or civil penalty. Copies of police incident reports, reports of other City departments documenting nuisance activities, evidence of a property’s general reputation, and the reputation of persons residing in or frequenting the property shall be admissible in proceedings under this chapter. A civil infraction or criminal charge which is deferred or subject to pretrial diversion, or a verdict of not guilty on a criminal charge, may be counted as a violation if the violation is proved by a preponderance of the evidence; provided, however, that a finding of not committed on a civil infraction precludes use of that act as a basis for a violation under this chapter.

8.30A.030 Declaration of chronic nuisance property and procedures.

A. If the Director determines a property is a chronic nuisance property, the City shall send a notice of violation and proposed correction agreement to the owner of the property and to the person in control of the property, if different. The notice of violation and proposed correction agreement shall be sent by first-class mail or personally served, and a copy shall be sent by certified mail. The City may also elect to post an additional copy of the notice of violation and proposed correction agreement in a conspicuous place on or at the property.

B. The notice of violation shall include the following:

1. The street address or a legal description sufficient for identification of the property;

2. A statement that the property has been determined to be a chronic nuisance property and a concise description of the chronic nuisance activities that exist or that have occurred on the property;

3. A copy of the proposed correction agreement;

4. A requirement that the owner of the property or person in control of the property, if different, shall respond to the Director within ten calendar days of the date of service of the notice of violation and meet at the designated time, unless otherwise agreed to by the City, to discuss the nuisance activities and the proposed correction agreement in order to abate the chronic nuisance; and

5. A notice that if the owner of the property or person in control of the property, if different, does not respond to the Director as required by this chapter or does not voluntarily correct the chronic nuisance, the City may initiate legal action to abate the chronic nuisance property.

8.30A.040 Correction agreement.

A. When an owner of a chronic nuisance property or person in control thereof, if different, responds to a notice of violation as required by this chapter and agrees to abate the chronic nuisance activity, a correction



1 agreement shall be entered into wherein the owner or person in control, if different, agrees to promptly take
2 all reasonable actions, as set forth in the correction agreement, to abate the nuisance activities within specific
3 time frames and according to specified conditions. The agreement shall be signed by the owner and the
4 person in control, if different.

5 B. The correction agreement shall include the following:

6 1. The name and address of the owner and/or person in control of the property;

7 2. The street address or a description sufficient for identification of the property, building, structure, or land
8 upon or within which the nuisance is occurring;

9 3. A concise description of the chronic nuisance activities existing or which have occurred;

10 4. The necessary corrective action to be taken, and a date or time by which correction must be completed;

11 5. An agreement by the person in charge that the City may inspect the property, as may be necessary, to
12 determine compliance with the correction agreement;

13 6. An agreement by the owner and person in control of the property, if different, to promptly take all acts and
14 pursue all remedies requested by the Director.

15 7. An agreement for a compliance review period to assure the property remains in compliance for a certain
16 period of time after the actions in the correction agreement have been completed.

17 **8.30A.050 Enforcement.**

18 A. Upon the failure of an owner or person in control, if different, to correct the chronic nuisance violations in
19 accordance with the notice of violation or the correction agreement, the City may initiate an action in a court
20 of competent jurisdiction to abate a chronic nuisance property, or may seek alternative remedies under local
21 and state law, including, but not limited to, a receivership pursuant to RCW 7.60, or condemnation of
22 blighted property proceedings as authorized under RCW 35.80A.

23 B. In an action by the City before a court of competent jurisdiction to abate the chronic nuisance property in
24 accordance with this chapter, the City shall have the initial burden of proof to show by a preponderance of the
25 evidence that the property is a chronic nuisance property and is in violation, as defined herein.

26 C. Once the court determines the property to be a chronic nuisance property under this chapter, the court may
27 order any relief deemed appropriate to abate the chronic nuisance activity consistent with RCW 7.48,
28 including issuing a warrant of abatement and assessing the costs of abatement against the owner or the
29 property, consistent with local and state law.

30 D. Where a Director has sent a notice of violation and correction agreement to the owner or person in control
31 of a chronic nuisance property, if different, the Director, or designee, shall review the status of that property
32 within 30 days of sending such notice of violation and correction agreement to determine whether additional
33 enforcement actions should be taken, or if the matter as to that property has been successfully resolved.

34 **8.30A.060 Additional remedies.**

35 A. At any time after the City initiates a chronic nuisance action, the City may record a Certificate of
36 Complaint with the Pierce County Auditor, to be attached to the title of the property. A copy of the Certificate
37 of Complaint shall be sent to the property owner.

38 B. If an owner or person in the control of the property, if different, fails to comply with this section, the
39 business license may be suspended until compliance with this chapter is achieved. Revocation or suspension
40 of a business license may be appealed as provided in TMC 6B.10.140.

41 C. Any violation of this chapter is a gross misdemeanor and may be punished by a fine up to \$5,000 and up to
42 364 days in jail, or both.

43 D. The remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the
44 City under another section of the TMC or state law, or enforcement actions taken by a different jurisdiction.

45 **8.30A.070 Appeals to the Hearing Examiner.**

46 A. A person to whom a notice of violation has been issued may request a hearing before the Hearing
47 Examiner to appeal the Director's determination of the property as a chronic nuisance property within
48 ten calendar days of the issuance of the notice of violation. The request for hearing shall be in writing and



shall be filed with the Office of the Hearing Examiner, with a copy served on the Director who issued the original notice of violation.

1 B. The appeal hearing shall be conducted in accordance with TMC 1.23 and the Hearing Examiner's Rules of
2 Procedure for Hearings. The City shall have the burden of proof to establish by a preponderance of the
3 evidence that the property is a chronic nuisance property and that the proposed corrective action is
4 reasonable.

5 C. The Hearing Examiner shall determine whether the City has established by a preponderance of the
6 evidence that the property is a chronic nuisance property and that the proposed corrective action is
7 reasonable. The Hearing Examiner shall affirm, modify, or vacate the Director's decision regarding the
8 alleged violation and the proposed correction agreement.

9 **8.30A.080 Successive owners liable.**

10 Every successive owner of property, or person in control, who neglects to abate a continuing chronic nuisance
11 upon, or in the use of, such property caused by a former owner, is liable therefor in the same manner as the
12 one who first created it.

13 **8.30A.090 Joint and several liability.**

14 Any owner or person in control of a chronic nuisance property shall be in violation of this chapter and subject
15 to its remedies. The person in control and the owner are jointly liable for any chronic nuisance. Both the
16 owner and person in control are subject to the provisions and remedies of this chapter. Application of this
17 chapter against one party does not preclude application to another party who is an owner or person in control
18 of a chronic nuisance property.

19 **8.30A.100 Severability.**

20 If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity
21 of the ordinance as a whole, or any other portion thereof, or the application of the provision to other persons
22 or circumstances is not affected.

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