

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING TITLE 5 OF THE OLYMPIA MUNICIPAL CODE RELATING TO BUSINESS TAXES, LICENSES AND REGULATIONS

WHEREAS, the City's business tax code in Title 5 OMC already requires people engaging in business in the City of Olympia to comply with licensing and tax obligations; and

WHEREAS, some of the Code's existing licensing and tax requirements can only be understood by reading several code chapters simultaneously; and

WHEREAS, historical edits have either introduced or failed to eliminate ambiguity across chapters within Title 5 OMC; and

WHEREAS, Title 5 OMC contains Chapters related to business licensing and taxes which the City collects directly from people engaging in business in Olympia, while Title 3 OMC contains Chapters related to tax revenue remitted to the City by the State or County; and

WHEREAS, the City wishes to clarify its existing licensing and tax requirements and improve compliance through administrative updates that improve language, ensure consistency and compliance, and remove ambiguity within the Code;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendments to Chapter 5.00.000 OMC. Olympia Municipal Code Chapter 5.00.000, Title Contents, is hereby amended to read as follows:

5.00.000 Title Contents

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

- 5.02 Business Licenses**
- 5.04 Business and Occupations Tax**
- 5.05 Administrative Provisions for Certain Taxes**
- 5.10 Occupational Permits**
- 5.15 Cable Communications Franchises**
- 5.16 Adult Oriented Businesses**
- 5.17 Community Events**
- 5.18 Farmers Market**
- 5.20 Gambling Activities**
- 5.24 Garage Sales**
- 5.32 Admissions Tax**

5.48	Occult Arts
5.50	Pet Shops
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5.55	Security Alarm Businesses
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5.84	Utility Services Tax
5.86	Multi-Family Dwelling Tax Exemptions

Section 2. Amendment of OMC Chapter 5.02. Olympia Municipal Code Chapter 5.02, Business Licenses, is hereby amended to read as follows:

Chapter 5.02

BUSINESS LICENSES

5.02.000 Chapter Contents

Sections:

<u>5.02.001</u>	<u>Administrative provisions</u>
<u>5.02.002</u>	<u>Definitions.</u>
5.02.005	License required.
5.02.010	License term designated.
5.02.015	License fee.
5.02.020	Application and renewal.
5.02.030	Home occupations-business.
5.02.040	Exemptions.
5.02.050	License Denial, Suspension or Revocation.
5.02.060	Appeal of License Denial, Suspension or Revocation.
5.02.070	<u>PenaltyViolations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.</u>

5.02.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.02.002 Definitions

For the purpose of this Chapter, the following terms, phrases, words and their derivations will have the meaning given in this section:

- A. "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.
- B. "Business enterprise" means any entity, person, partnership, association, corporation, limited liability company, trust, society, or club engaged in business within the City of Olympia.
- C. "City" means the City of Olympia.

D. "Conduct business" See "Engage in business"

E. "Employee" means any person employed at any business enterprise who performs any part of their duties within the City. All officers, agents, dealers, franchisees, managing members, etc., of a corporation or business trust, limited liability company, and partners of a partnership, except limited partners, are employees within this definition.

F. "Engage in business":

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

2. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1) above. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

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

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

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

c. Soliciting sales.

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

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

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

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

h. Collecting current or delinquent accounts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

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

G. "Home occupation" means a nonresidential use complying with OMC 18.04.060.L that is clearly incidental and secondary to the use of a dwelling for residential purposes and does not change the character of the dwelling.

H. "Home occupation business" means a business with its physical address in a residence, and the related business activities conducted within the residence.

I. "Licensee" means any business granted a business license.

J. "Nonprofit" means any business enterprise registered as a nonprofit corporation within the state of Washington or granted nonprofit status through the code of the Internal Revenue Service of the United States.

K. "Physical presence" means an address where the business is located.

L. "Place of business" means the physical location of the business.

M. "Business Licensing Service" and "BLS" mean the office within the Washington State Department of Revenue providing business licensing services to the eCity.

N. "Director": "Director" means the ClerkFinance Director-Treasurer of the City or any officer, agent or employee of the City designated to act on the Director's behalf.

5.02.005 License required

A. No person may conduct business within the City without first obtaining an approved City business license. The license required by this chapter is in addition to any regulatory license that may be required by another chapter within Title 5 OMC. The approved City business license includes the Olympia endorsement addendum to the state business license.

B. The business license is not transferable. A business owner acquiring an existing business in the City must obtain a new, approved license for that business. Each separate physical location operated by a

business inside the City must be licensed separately and be approved by the City before business may commence at that location. No fee will be charged for additional locations. A change of physical location of a business inside the City will require approval by the City before business may commence at the new location, and may require the filing of a new State of Washington Business License Application and/or a new City of Olympia Business License Endorsement Addendum Application. If two or more businesses operate at the same physical location, each business must obtain a license.

C. The issuance and renewal of business licenses shall be done by the State of Washington Department of Revenue Business License Service (BLS) in coordination with the City.

D. The business license document issued by the Business License Service must display the active Olympia Endorsement and be posted in a conspicuous place on the premises identified on the license.

E. Each and every person making available for rent or renting one or more rental units within the City limits, shall, in accordance with OMC 5.82.080, obtain and maintain a business license, unless exempt under that section. This obligation to obtain a business license applies to the rental of any rental unit, regardless of the term of the rental. One business license covers all of a person's rental units within the City; however, a separate business license is required for any other business operated by such person, in accordance with this Chapter.

5.02.010 License term designated

The license required by this chapter shall have a term as established by the State of Washington Department of Revenue Business License Service, in cooperation with the City.

5.02.015 License fee

The initial fee for the City business license required by this chapter is \$30.00. The renewal fee may be prorated to accommodate the license term established under OMC 5.02.010. The license fees listed in this section are in addition to any other license or handling fee collected by the BLS.

5.02.020 Application and renewal

A. Application for the business license shall be made by submitting a completed Master Business Application, and any appropriate addenda forms to the BLS, in cooperation with the City. Said application shall be accompanied by payment of all respective license fees due for that application and the BLS application handling fee authorized by RCW 19.02.075.

B. Renewals shall be handled by the Business License Service in coordination with the City Finance Director-Treasurer. Renewal shall require payment of all license fees due for that renewal, and the BLS renewal handling fee authorized by RCW 19.02.075.

C. Failure to renew the license on or before the expiration date established by the Business License Service may result in the charge of a delinquent renewal penalty as authorized in RCW 19.02.085. The City shall consider failure to renew the City endorsement as a failure to renew the City license and may terminate the expired City endorsement and charge the delinquent renewal penalty in OMC 4.60.050.

D. Failure to renew the license on or before 120 days after the expiration date established by the Master License Service may result in the cancellation of the license, and license and may require the filing of a new Master Business Application, payment of all appropriate fees, and reapproval by the City in order to continue conducting business in the City.

5.02.030 Home occupations business

The purpose of the home occupation provisions of OMC 18.04.060 is to allow for the use of a residential structure for a non-residential use. A business owner intending to conduct business from a residence located within the City must provide proof of residency within the City and sign an acknowledgement of compliance with the Home Occupation Standards listed in OMC 18.04.060. The proof of residency and acknowledgement must be filed directly with the City separate from the State of Washington Business

~~License Application submitted to the Business License Service, and must be received by the City before the business license application can be approved.~~shall indicate so during the business license process and provide additional information as requested by the City.

5.02.040 Exemptions

A. Nonprofit organizations recognized by the State of Washington and Federal Government (e.g., 501(c)(3)) are exempted from any fees in this Chapter. However, they are not exempted from registering with the City of Olympia.

B. For the purposes of this Chapter, any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 shall ~~submit a business license registration to the Director or designee~~still obtain a business license according to 5.02.005. The \$2,000 threshold does not apply to regulatory license requirements or activities that require a specialized permit. Businesses who meet the criteria described above are exempt from any City of Olympia license fees described in this Chapter.

5.02.050 License Denial, Suspension or Revocation

A. A business license may be denied, suspended or revoked by the ~~City's Director or designee of Administrative Services.~~ The Director, or designee, shall notify the license applicant or licensee in writing of the denial, suspension, or revocation of the license applicant's or licensee's registration and the grounds therefor. A business license may be denied, suspended or revoked for any one or more of the following reasons:

1. the license was procured by fraud or false representation of fact or contains misleading statements or suppression of material facts about the business;
2. the license applicant has applied for a business license for activities that are prohibited by law;
3. the licensee, owner, or operator of the business is currently operating a business in a manner that is prohibited by law;
4. the licensee is in violation of the terms and conditions under which the license was issued;
5. the licensee, owner, operator, or an employee has been convicted of a crime involving the business;
6. it is necessary to deny, suspend, or revoke the license for the protection of the public health, safety, peace, or welfare;
7. the business has become an instrument of or a cover for public disorder, crime, or other danger to public safety, morals, or health.
8. the business has failed to file and pay B&O taxes required by OMC 5.04.060 or other taxes imposed by Title 5 OMC.

B. Upon revocation of any license as provided in this Chapter, no portion of the registration fee shall be returned to the applicant or licensee.

5.02.060 Appeal of License Denial, Suspension or Revocation

If a business license is denied, suspended, or revoked pursuant to any provision of OMC 5.02.050(1-7), a business owner or license applicant may appeal such decision to the City Manager within thirty (30) days of such denial, suspension, or revocation. In order for an appeal to be considered, the business owner or applicant must state with particularity the reasons why the City's decision was in error and the reasons the City Manager should reverse the denial, suspension, or revocation. The City Manager (or designee) will review the appeal and issue a written decision to uphold, modify, or reverse the denial, suspension,

or revocation within thirty (30) days of receipt of the appeal. The City Manager's or designee's decision is the final decision of the City and may be appealed to the Thurston County Superior Court within thirty (30) days of the date the City Manager or designee issues the City Manager's decision.

5.02.070 PenaltyViolations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction

A. Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, iIt shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:provided in OMC Chapter 4.44, Uniform Civil Enforcement.

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Civil Enforcement.

Section 3. Amendment of OMC Chapter 5.04. Olympia Municipal Code Chapter 5.04, Business and Occupations Tax, is hereby amended to read as follows:

Chapter 5.04

BUSINESS AND OCCUPATIONS TAX

5.04.000 Chapter Contents

Sections:

- 5.04.010 Purpose.
- 5.04.020 Exercise of Revenue License Power.
- 5.04.025 License Required.
- 5.04.030 Administrative Provisions.
- 5.04.040 Definitions.
- 5.04.050 Agency – Sales and Services by Agent, Consignee, Bailee, Factor, or Auctioneer.
- 5.04.060 Imposition of the Tax – Tax or Fee Levied.
- 5.04.080 Multiple Activities Credit When Activities Take Place In One or More Cities With Eligible Gross Receipt Taxes.
- 5.04.085 Deductions to Prevent Multiple Taxation of Transactions Involving More Than One City With an Eligible Gross Receipts Tax.
- 5.04.090 Reserved for Any Future Additions.

5.04.100	Assignment of Gross Income Derived From Intangibles.
5.04.105a	Allocation and Apportionment of Income When Activities Take Place In More Than One Jurisdiction.
5.04.105b	Allocation and Apportionment of Printing and Publishing Income When Activities Take Place In More Than One Jurisdiction.
5.04.110	Exemptions.
5.04.120	Deductions.
5.04.130	Tax Part of Overhead.
5.04.140	Severability.
5.04.150	Miscellaneous.

5.04.010 Purpose

The tax provisions of this chapter are intended to provide a uniform methodology for levying a gross receipts tax on business entities. Nothing in this chapter should be construed as limiting a city's ability to levy and collect a business privilege tax on any other basis, such as a tax on square footage, a tax on annualized full-time equivalents [head tax], graduated annual license tax, or any other tax calculated on a basis other than a gross receipts tax [gross income of the business, gross proceeds of sales, or value of products multiplied by rates].

5.04.020 Exercise of Revenue License Power

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

5.04.025 License required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC Chapter 5.02.

5.04.030 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.04.040 Definitions

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

"Advance" "reimbursement":

1. "Advance" means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees on behalf of the customer or client.
2. "Reimbursement" means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees of the customer or client.

"Agricultural product" "farmer":

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

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

"Artistic or cultural organization":

1. "Artistic or cultural organization" means an organization which is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (10) of this section, for viewing or attendance by the general public.
2. The organization must be a not-for-profit corporation under Chapter 24.03 RCW.
3. The organization must be managed by a governing board of not less than eight (8) individuals, none of whom is a paid employee of the organization or by a corporation sole under Chapter 24.12 RCW.
4. No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees, except in the form of services rendered by the corporation in accordance with its purposes and bylaws.
5. Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state.
6. Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a non-profit organization, association, or corporation which also would be entitled to the exemption.
7. The corporation must be duly licensed or certified when licensing or certification is required by law or regulation.
8. The amounts received that qualify for exemption must be used for the activities for which the exemption is granted.
9. Services must be available regardless of race, color, national origin, ancestry, religion, age, sex, marital status, sexual orientation, Vietnam or disable veteran status, or the present of any mental or physical disability.
10. The term "artistic or cultural exhibitions, presentation, or performances or cultural or art education programs" is limited to:
 - a. An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;
 - b. A musical or dramatic performance or series of performances; or
 - c. An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

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

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

"By Product": See Product.

"Casual Sale": See Sale.

"Commercial" or "industrial use": Means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer;
2. The manufacturing of products including articles, substances or commodities;

"Company": See Person.

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

"Consumer": "Consumer" means the following:

1. Any person who purchases, acquires, owns, holds, or uses any tangible or intangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for a consumer other than for the purpose of:
 - a. resale as tangible or intangible personal property in the regular course of business;
 - b. incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;
 - c. incorporating such property as an ingredient or component of a new product or as a chemical used in processing a new product when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new product; or
 - d. consuming the property in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;
2. Any person engaged in any business activity taxable under Section 5.04.060(G);
3. Any person who purchases, acquires, or uses any competitive telephone service as herein defined, other than for resale in the regular course of business;
4. Any person who purchases, acquires, or uses any personal, business, or professional service defined as a retail sale or retail service in this section, other than for resale in the regular course of business;

5. Any person who is an end user of software;
6. Any person engaged in the business of "public road construction" in respect to tangible personal property when that person incorporates the tangible personal property as an ingredient or component of a publicly-owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of a publicly-owned street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of a publicly-owned mass public transportation terminal or parking facility;
7. Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business;
8. Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;
9. Any person engaged in "government contracting." Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person;

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

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

"Digital Automated Service", "digital code", and "digital goods": "Digital Automated Service", "digital code", and "digital goods" have the same meaning as in RCW 82.04.192.

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

"Director": ~~"Director" means the Clerk-Treasurer of the City or any officer, agent or employee of the City designated to act on the Director's behalfs defined in OMC 5.02.002.~~

"Eligible gross receipts tax": "Eligible gross receipts tax" means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within Section 5.04.060; and

2. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
3. Is not, pursuant to law or custom, separately stated from the sales price; and
4. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

“Engaging in business”:

1. The term “Engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
2. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.
3. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
 - a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.
 - b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
 - c. Soliciting sales.
 - d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 - e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 - f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 - g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - h. Collecting current or delinquent accounts.
 - i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

- j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architects, security system services, surveying, and real estate services including the listing of homes and managing real property.
 - k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
 - l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
 - n. Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.
- a. Meeting with suppliers of goods and services as a customer.
 - b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
 - d. Renting tangible or intangible property as a customer when the property is not used in the City.
 - e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

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

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

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

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

"Government contracting": See Sale at Retail.

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

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

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

"Isolated Sale": See Sale.

"Magazine": See Newspaper.

"Manufacturing": "Manufacturing" means the activity conducted by a manufacturer and is reported under the manufacturing classification.

"Manufacturer" "to manufacture" "processing for hire":

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

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

- a. the production of special made or custom made articles;
- b. the production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician; and
- c. crushing and/or blending of rock, sand, stone, gravel, or ore; and
- d. the producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

"To manufacture" shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

3. "Processing for hire" means the performance of labor and mechanical services upon materials or ingredients belonging to others so that as a result a new, different or useful product is produced for sale, or commercial or industrial use. A processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials or ingredients. If a person furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to twenty percent (20%) or more of the total value of all materials or ingredients that become a part of the finished product the person will be deemed to be a manufacturer and not a processor for hire.

"Newspaper" "magazine" "periodical": "Newspaper" means a publication offered for sale regularly at stated intervals at least once a week and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind. "Magazine" or "periodical" means any printed publication, other than a newspaper, issued and offered for sale regularly at stated intervals at least once every three (3) months, including any supplement or special edition of the publication. Any publication meeting this definition qualifies regardless of its content.

"Non-profit corporation or non-profit organization": "Non-profit corporation or non-profit organization" means a corporation or organization in which no part of the income can be distributed to its members, directors, or officers and that holds a current tax exempt status as provided under Sec. 501(c)(3) of the Internal Revenue Code, as may hereafter be amended, or is specifically exempted from the requirement to apply for its tax exempt status under Sec. 501(c)(3) of the Internal Revenue Code, or as may hereafter be amended. Where the term "non-profit organization" is used, it is meant to include non-profit corporations.

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

1. Whose address the person uses as its business mailing address;

2. Where the place of primary use is shown on a telephone billing or a location contains a telephone line listed in a public telephone directory or other similar publication under the business name; and
3. Where the person holds itself out to the general public as conducting its regular business through signage or other means; and
4. Where the person is required to obtain any appropriate state and local business license or registration unless they are exempted by law from such requirement.
5. A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or place of business. A post office box is not an office or place of business. If a person has an office or place of business, the person's home is not an office or place of business unless it meets the criteria for office or place of business above. If a person has no office or place of business, the person's home or apartment within the City will be deemed the place of business.

"Person": "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, social, non-profit, or otherwise and the United States or any instrumentality thereof.

"Precious metal bullion or monetized bullion": "Precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

"Processing for hire": See Manufacturer.

"Product" "Byproduct": "Product" means tangible personal property, including articles, substances, or commodities created, brought forth, extracted, or manufactured by human or mechanical effort. "Byproduct" means any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.

"Public road construction": See Sale at Retail.

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

"Retail Sale": See Sale at Retail.

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

1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the

opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

2. Abstract, title insurance, and escrow services;
3. Credit bureau services;
4. Automobile parking and storage garage services;
5. Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;
6. Service charges associated with tickets to professional sporting events; and
7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.
8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

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

"Sale" "Casual or isolated sale":

1. "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail", "retail sale", or "retail service". It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

"Sale at retail" or "Retail sale":

1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:
 - a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
 - b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or
 - c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such

chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

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

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

f. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity that is taxable under OMC 5.04.060 (G).

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

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

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

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

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

e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

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

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

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

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

5. a. "Sale at retail" or "retail sale" shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection 5(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser. The term "sale at retail" or "retail sale" does not include the sale of or charge made for:

i. custom software

ii. the customization of prewritten software

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

ii. The service described in this subsection 5(b)(i) includes the right to access and use prewritten software to perform data processing.

For purposes of this subsection 5(b)(ii) "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

6. "Sale at retail" or "retail sale" shall also include Public Road Construction, which is the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of

any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

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

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

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

10. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action. (This is reported under the service and other classification.)

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

- a. Sales in which the seller has granted the purchaser the right of permanent use;
- b. Sales in which the seller has granted the purchaser a right of use that is less than permanent;
- c. Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and
- d. Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

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

For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement

between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

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

"Sale at wholesale" "wholesale sale": "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in Subsection 5.b.i, which is not a retail sale, and any charge made for labor and services rendered for persons who are not customers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company for the purpose of resale, as contemplated by RCW 35.21.715.

"Service": shall include the sale of or charge for personal, business or professional activities, including amounts designated as internet, rent, fees, admission, and other service emoluments however designated, received by persons engaging in business activities not included in the designation of "retail service," "sale at retail," or "sale at wholesale." By way of example only, "service" includes but is not limited to legal and engineering services, consulting, and appraisal services.

"Software" "prewritten or canned software" "custom software" "customization of canned software" "master copies" "retained rights":

1. "Prewritten or canned software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which such persons is not the author or creator, the person shall be deemed to be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

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

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

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

5. "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under

contract or license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

6. "Software" means any information, program, or routine, or any set of one (1) or more programs, routines, or collections of information used, or intended for use, to convey information that causes one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the associated documentation, materials, or ingredients regardless of the media upon which that documentation is provided, that describes the code and its use, operation, and maintenance and that typically is delivered with the code to the consumer. All software is classified as either canned or custom.

"Taxpayer": "Taxpayer" means any "person", as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

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

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

"Value of products":

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.
2. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases,

there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

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

“Wholesale sale”: See Sale at Wholesale.

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

5.04.050 Agency – sales and services by agent, consignee, bailee, factor or auctioneer

A. Sales in own name – sales or purchases as agent.

1. Every person, including agents, consignees, bailees, factors or auctioneers having either actual or constructive possession of tangible personal property or having possession of the documents of title thereto, with power to sell such tangible personal property in the person’s own name and actually so selling shall be deemed the seller of such tangible personal property within the meaning of this chapter.

2. The burden shall be upon the taxpayer in every case to establish the fact that such taxpayer is not engaged in the business of selling tangible personal property but is acting merely as broker or agent in promoting sales or making purchases for a principal. Such claim will be recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:

a. The books and records of the broker or agent show the transactions were made in the name and for the account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made.

b. The books and records show the amount of the principal’s gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales. The principal’s gross sales must not be reflected as the agent’s income on any of the agent’s books and records. Commissions must be computed according to a set percentage or amount, which is agreed upon in the agency agreement.

c. No ownership rights may be conferred to the agent unless the principal refuses to pay, or refuses to abide by the agency agreement. Sales or purchases of any goods by a person who has any ownership rights in such goods shall be taxed as retail or wholesale sales.

d. Bulk goods sold or purchased on behalf of a principal must not be co-mingled with goods belonging to another principal or lose their identity as belonging to the particular principal. Sales or purchases of any goods which have been co-mingled or lost their identity as belonging to the principal shall be taxed as retail or wholesale sales.

B. If the above requirements are not met the consignor, bailor, principal or other shall be deemed a seller of such property to the agent, consignee, bailee, factor or auctioneer.

C. Services in own name – procuring services as agent.

1. For purposes of this subsection, an agent is a person who acts under the direction and control of the principal in procuring services on behalf of the principal that the person could not itself render or supply. Amounts received by an agent for the account of its principal as advances or reimbursements are exempted from the measure of the tax only when the agent is not primarily or secondarily liable to pay for the services procured.
2. Any person who claims to be acting merely as agent in obtaining services for a principal will have such claim recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:
 - a. The books and records of the agent show that the services were obtained in the name and for the account of the principal, and show the actual principal for whom the purchase was made.
 - b. The books and records show the amount of the service that was obtained for the principal, the amount of commissions and any other income derived by the agent for acting as such. Amounts received from the principal as advances and reimbursements must not be reflected as the agent's income on any of the agent's books and records. Commissions must be computed according to a set percentage or amount, which is agreed upon in the agency agreement.

5.04.060 Imposition of the tax – tax or fee levied

Except as provided in OMC 5.04.060(H), there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

- A. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of one-tenth of one percent (0.1%). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.
- B. Upon every person engaging within the City in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the city, multiplied by the rate of one-tenth of one percent (0.1%). The measure of the tax is the value of the products, including by-products, so manufactured or processed, regardless of the place of sale or the fact that deliveries may be made to points outside the City.
- C. Upon every person engaging within the City in the business of making sales at wholesale, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of one-tenth of one percent (0.1%).
- D. Upon every person engaging within the City in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of one-tenth of one percent (0.1%).
- E. Upon every person engaging within the City in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines, and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of one-tenth of one percent (0.1%).

F. Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of one tenth of one percent (0.1%).

G. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of two-tenths of one percent (0.2%). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

H. This section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is less than \$20,000, or is equal to or less than \$5,000 during any quarter if on a quarterly reporting basis.

5.04.080 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes

A. Persons who engage in business activities that are within the purview of two (2) or more subsections of OMC 5.04.060 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, if the Director finds that the imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

C. To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied and that the taxpayer paid the amount of tax sought to be credited.

D. Credit for persons that sell in the city products that they extract or manufacture. Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the City, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

E. Credit for persons that manufacture products in the city using ingredients they extract. Persons taxable under the manufacturing classification with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

F. Credit for persons that sell within the City products that they print, or publish and print. Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

5.04.085 Deductions to prevent multiple taxation of transactions involving more than one city with an eligible gross receipts tax

A. Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity. A taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.
2. Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).
3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. Person manufacturing products within and without the City. A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

5.04.090 Reserved for any future additions

Reserved for any future additions.

5.04.100 Assignment of gross income derived from intangibles

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

5.04.105a Allocation and apportionment of income when activities take place in more than one jurisdiction

Effective January 1, 2008, gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

- A. Gross income derived from all activities other than those taxed as service or royalties under OMC 5.04.060.G shall be allocated to the location where the activity takes place.
- B. In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.
- C. In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:
 1. The seller's place of business if the purchaser receives the digital product at the seller's place of business;
 2. If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

3. If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

4. If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

5. If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

D. If none of the methods in Subsection 5.04.105a (C) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in subsections 5.04.105a (C) (1) through (5), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection 5.04.105a (D). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in Subsections 5.04.105a (C) (1) through (5) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

E. For purposes of subsections 5.04.105a.C.1 through 5, the following definitions apply:

1. "Digital automated services", "digital codes", and "digital goods" have the same meaning as in RCW 82.02.192.

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

3. "Receive" has the same meaning as in RCW 82.32.730(9)(f).

F. Gross income derived from activities taxed as services and other activities taxed under OMC 5.04.060.G shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

1. The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

a. The individual is primarily assigned within the city;

b. The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of the employee's service for the tax period in the city; or

c. The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of the individual's service in any city and the employee resides in the city.

2. The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if the customer location is in the city.

a. Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under (b) of this subsection (F) to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (F)(2)(a), "not taxable" means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

b. If the allocation and apportionment provisions of this subsection (F) do not fairly represent the extent of the taxpayer's business activity in the city, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- i. Separate accounting;
- ii. The exclusion of any one or more of the factors;
- iii. The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- iv. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

c. The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (2 (b)) of this subsection must prove by a preponderance of the evidence:

- i. That the allocation and apportionment provisions of this subsection (F) do not fairly represent the extent of the taxpayer's business activity in the city; and
- ii. That the alternative to such provisions is reasonable.

The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

d. If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection (F).

e. A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material

misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

f. The following definitions apply throughout this section:

- i. "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.
- ii. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.
- iii. "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.
- iv. "Customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.
- v. "Customer location" means the following:
 - (a). For a customer not engaged in business, if the service requires the customer to be physically present where the service is performed.
 - (b). For a customer not engaged in business, if the service does not require the customer to be physically present:
 - (1). The customer's residence; or
 - (2). If the customer's residence is not known, the customer's billing/mailling address.
 - (c). For a customer engaged in business:
 - (1). Where the services are ordered from;
 - (2). At the customer's billing/mailling address if the location from which the services are ordered is not known; or
 - (d). At the customer's commercial domicile if none of the above are known.
- vi. "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.
- vii. "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.
- viii. "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

- ix. "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.
- g. Assignment or apportionment of revenue under this Section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

5.04.105b Allocation and apportionment of printing and publishing income when activities take place in more than one jurisdiction

Notwithstanding RCW 35.102.130, effective January 1, 2008, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines, have the same meanings as attributed to those terms in RCW 82.04.280(1) by the department of revenue.

5.04.110 Exemptions

The provisions of this chapter shall not apply to the following:

- A. This chapter shall not apply to non-profit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as hereafter amended, except with respect to retail sales of such persons; provided, however, that the exemption set forth in the foregoing provision of this OMC 5.04.110(A) shall not apply to medical services, including a hospital, as defined in RCW 70.41, if gross income of the business of the medical service or hospital, net of exemptions and deductions (if any) permitted to be taken under OMC 5.04.110 and OMC 5.04.120, exceeds \$30 million.
- B. Certain social and beneficiary organizations. This chapter shall not apply to social benefit societies or social fire insurance associations, as described in Title 48 RCW; nor to beneficiary corporations or societies organized under and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of death benefits. This exemption is limited, however, to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such societies, associations, or corporations.
- C. Certain corporations furnishing aid and relief. This chapter shall not apply to the gross sales or the gross income received by corporations which have been incorporated under any act of Congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States of America and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.
- D. Operation of sheltered workshops. This chapter shall not apply to income received from the Department of Social and Health Services for the cost of care, maintenance, support, and training of persons with developmental disabilities at non-profit group training homes as defined by Chapter 71A.22 RCW or to the business activities of non-profit organizations from the operation of sheltered workshops. For the purposes of this subsection, "the operation of sheltered workshops" means performance of business activities of any kind on or off the premises of such non-profit organizations which are performed for the primary purpose of:
1. Providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market do not exist; or
 2. Providing evaluation and work adjustment services for handicapped individuals.

- E. Credit unions. This chapter shall not apply to the gross income of credit unions organized under the laws of this state, any other state, or the United States.
- F. Health maintenance organization, health care service contractor, certified health plan.
1. This chapter does not apply to any health maintenance organization, health care service contractor, or certified health plan in respect to premiums or prepayments that are taxable under RCW 48.14.0201. However, per RCW 48.14.0201(7), this exemption is not intended to, and shall not, impair the City's ability to impose a tax hereunder upon the health care services directly delivered by the employees of a health maintenance organization under RCW chapter 48.46.
- G. Public utilities. This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of Olympia Municipal Code Chapter 5.84.
- H. Investments – dividends from subsidiary corporations. This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.
- I. International banking facilities. This chapter shall not apply to the gross receipts of an international banking facility. As used in this subsection, an "international banking facility" means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631, or an Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604(a), that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the Board of Governors of the Federal Reserve System), and international banking facility extensions of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D).
- J. Insurance business. This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the State pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.
- K. Farmers - agriculture. This chapter shall not apply to any farmer in respect to amounts received from selling fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats or any other agricultural product that is raised, caught, produced, or manufactured by such persons.
- L. Boxing/Wrestling exhibitions. This chapter shall not apply to any person in respect to the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the State Department of Licensing.
- M. Racing. This chapter shall not apply to any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the Washington State Horse Racing Commission.
- N. Ride sharing. This chapter does not apply to any funds received in the course of commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010.

O. Employees.

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

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

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

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

R. Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.38.020 and exempt under RCW 82.38.280, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

S. Amounts derived from liquor, and the sale or distribution of liquor. This chapter shall not apply to liquor as defined in RCW 65.04.010 and exempt in RCW 66.08.120.

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

U. Community Events and Farmers Markets. This chapter shall not apply to community events licensed under OMC 5.17, and farmers markets licensed under OMC 5.18, as specified in OMC 5.17 and OMC 5.18.

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

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

X. United States gross income. The gross income received by the United States or any instrumentality thereof and by the state or any municipal subdivision thereof.

5.04.120 Deductions

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

A. Membership fees and certain service fees by non-profit youth organization. For purposes of this subsection, "non-profit youth organization" means a non-profit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030. In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by a non-profit youth organization:

1. As membership fees or dues, irrespective of the fact that the payment of the membership fees or dues to the organization may entitle its members, in addition to other rights or privileges, to receive services from the organization or to use the organization's facilities; or
2. From members of the organization for camping and recreational services provided by the organization or for the use of the organization's camping and recreational facilities.

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

1. initiation fees;
2. dues;
3. contributions;
4. donations;
5. tuition fees;
6. charges made by a non-profit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the non-profit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public; charges made for operation of privately operated kindergartens;
7. and endowment funds.

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

C. Artistic and cultural organizations -- income from business activities. In computing tax, there may be deducted from the measure of tax those amounts received by artistic or cultural organizations, as defined in this chapter, which represent:

1. Income derived from business activities conducted by the organization, provided that this deduction does not apply to retail sales made by artistic and cultural organizations;
2. Amounts received from the United States or any instrumentality thereof or from the State of Washington, or any municipal corporation or subdivision thereof as compensation for; or to support artistic or cultural exhibitions, performances, or programs provided by an artistic or cultural organization for attendance or viewing by the general public; or
3. Amounts received as tuition charges collected for the privilege of attending artistic or cultural education programs.

D. Artistic or cultural organization -- Deduction for tax under the manufacturing classification -- Value of articles for use in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs. In computing tax, there may be deducted from the measure of tax by persons subject to payment of the tax under the manufacturing classification, the value of articles to the extent manufacturing activities are undertaken by an artistic or cultural organization, as defined in this chapter, solely for the purpose of manufacturing articles for use by the organization in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs for attendance or viewing by the general public.

E. Day care activities. In computing tax, there may be deducted from the measure of tax amounts derived from day care activities by any organization organized and operated for charitable, educational, or other purposes which is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; provided, however, that amounts derived from selling, altering or repairing tangible personal property shall not be deductible.

F. Compensation from public entities for health or social welfare services -- exception. In computing tax, there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the State of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization (as defined in RCW 82.04.431) or by a municipal corporation or political subdivision, except deductions are not allowed under this subsection for amounts that are received under an employee benefit plan. For purposes of this subsection, "employee benefit plan" includes the military benefits program authorized in 10 USC Sec. 1071 et seq., as amended, or amounts payable pursuant thereto.

G. Interest on investments or loans secured by mortgages or deeds of trust. In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

H. Interest on loans to farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives. In computing tax, there may be deducted from the measure of tax amounts derived as interest on loans to bona fide farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives by a lending institution which is owned exclusively by its borrowers or members and which is engaged solely in the business of making loans and providing finance-related services to bona fide farmers and ranchers, producers, or harvesters of aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing farm-related or aquatic-related services to these individuals or entities.

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

J. Receipts from the sale of tangible personal property and retail services delivered outside the City but within the State of Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

K. Cash discount taken by purchaser. In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving

at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.

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

M. Repair, maintenance, replacement, etc., of residential structures and commonly held property - eligible organizations.

1. In computing tax, there may be deducted from the measure of tax amounts used solely for repair, maintenance, replacement, management, or improvement of the residential structures and commonly held property, but excluding property where fees or charges are made for use by the public who are not guests accompanied by a member, which are derived by:

a. A cooperative housing association, corporation, or partnership from a person who resides in a structure owned by the cooperative housing association, corporation, or partnership; or

b. An association of owners of property as defined in RCW 64.32.010, as now or hereafter amended, from a person who is an apartment owner as defined in RCW 64.32.010; or

c. An association of owners of residential property from a person who is a member of the association. "Association of owners of residential property" means any organization of all the owners of residential property in a defined area that all hold the same property in common within the area.

2. For the purposes of this subsection "commonly held property" includes areas required for common access such as reception areas, halls, stairways, parking, etc., and may include recreation rooms, swimming pools and small parks or recreation areas; but is not intended to include more grounds than are normally required in a residential area, or to include such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating areas, etc.

3. To qualify for the deductions under this subsection:

a. The salary or compensation paid to officers, managers, or employees must be only for actual services rendered and at levels comparable to the salary or compensation of like positions within the county wherein the property is located;

b. Dues, fees, or assessments in excess of amounts needed for the purposes for which the deduction is allowed must be rebated to the members of the association; and,

c. Assets of the association or organization must be distributable to all members and must not inure to the benefit of any single member or group of members.

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

O. Amounts representing rental of real estate for assisted living facilities. In computing tax, there may be deducted from the measure of the tax amounts derived from the value of the rental of real estate for "assisted living facilities." To qualify for the deduction, the assisted living facility must meet the definition

of "assisted living facility" and licensed by the State of Washington under RCW 18.20. The deduction shall be in the amount of twenty-five percent (25%) of the gross monthly billing when the boarder has resided within the assisted living facility for longer than thirty (30) days.

P. Radio and television broadcasting - advertising agency fees - national, regional, and network advertising - interstate allocations. In computing tax, there may be deducted from the measure of tax by radio and television broadcasters amounts representing the following:

1. advertising agencies' fees when such fees or allowances are shown as a discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount;
2. actual gross receipts from national network, and regional advertising or a "standard deduction" as provided by RCW 82.04.280; and
3. local advertising revenue that represent advertising which is intended to reach potential customers of the advertiser who are located outside the State of Washington. The Director may issue a rule that provides detailed guidance as to how these deductions are to be calculated.

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

R. Receipts from the sale of tangible personal property delivered outside the City but within Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing or wholesaling classification. (Note: The cities which tax retail services under the retailing classification, and not the service and other classification, should also include retail services in this deduction (both in the title and in the deduction itself)).

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

5.04.130 Tax part of overhead

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

5.04.140 Severability

If any provision of this chapter or its application to any person or circumstance is held invalid for any reason, the remainder of the chapter or the application of the provision or chapter to other persons or circumstances shall not be affected.

5.04.150 Miscellaneous

A. Short title. ~~This~~The provisions of this Chapter 5.04 shall be known as the Olympia Business and Occupations Tax Code.

B. Headings. The headings contained in this ordinance are for convenience only and shall not be deemed to govern, limit, modify or otherwise affect the scope, meaning or intent of the provisions contained herein in any manner.

C. The former provisions of Olympia Municipal Code Chapter 5.04, which are being repealed and replaced with the provisions of this new Code Chapter 5.04 (Ordinance No. 6328), shall remain in full force and effect until the effective date of this new Code Chapter 5.04, which is January 1, 2005 or as may hereafter be amended.

Section 4. Amendment of OMC Section 5.05.000. Olympia Municipal Code Section 5.05.000, Chapter Contents, is hereby amended to read as follows:

Chapter 5.05
ADMINISTRATIVE PROVISIONS FOR CERTAIN TAXES

5.05.000 Chapter Contents

Sections:

I. General

5.05.010 Purpose.
5.05.015 Application of Chapter.
5.05.020 Definitions.
5.05.021 Definitions -- References to Chapter 82.32 RCW.
5.05.025 Business license required.
5.05.030 Suspension or revocation of business license for failure to pay taxes.

II. Payment of Tax, Interest and Penalty

5.05.040 When due and payable -- Reporting periods -- Monthly, quarterly, and annual returns -- Threshold provisions or Relief from filing requirements -- Computing time periods -- Failure to file returns.
5.05.050 Payment methods -- Mailing returns or remittances -- Time extension -- Deposits -- Recording payments -- Payment must accompany return -- NSF checks.
5.05.060 Records to be preserved -- Examination -- Estoppel to question assessment.
5.05.070 Accounting methods.
5.05.080 ~~Public work contracts~~ -- Payment of fee and tax before final payment for work.
5.05.090 Underpayment of tax, interest, or penalty -- Interest -- Limitations.
5.05.100 Over payment of tax, penalty, or interest -- Credit or refund -- Interest rate -- Statute of limitations.
5.05.110 Late Payment -- Disregard of Written Instructions -- Evasion -- Penalties.
5.05.120 Cancellation of penalties.
5.05.130 Taxpayer quitting business -- Liability of successor.
5.05.140 Tax declared additional.
5.05.150 Public disclosure -- Confidentiality -- Information sharing.
5.05.160 Tax constitutes debt.
5.05.170 Unlawful actions -- Violation -- Penalties.
5.05.180 Closing agreement provisions.
5.05.190 Charge-off of uncollectible taxes.

III. Appeals

5.05.200 Administrative Appeal.
5.05.210 Administrative Appeal Hearing.
5.05.220 Decision on Administrative Appeal.
5.05.230 Judicial Review of Administrative Appeal Decision.
5.05.240 Tax Hearing Examiner Selection.
5.05.250 Qualification and removal of Tax Hearing Examiner.

- 5.05.260 Improper influence, conflict of interest and appearance of fairness.
5.05.270 Organization, Rules.

IV. Director's Authority

- 5.05.280 Director to make rules.
5.05.290 Ancillary allocation authority of Director.
5.05.295 Enforcement duties of Director and Agents.

V. Miscellaneous

- 5.05.300 Severability.
5.05.310 Mailing of Notices.

Section 5. Amendment of OMC Section 5.05.015. Olympia Municipal Code Section 5.05.015, Application of Chapter, is hereby amended to read as follows:

5.05.015 Application of Chapter

~~The provisions of this chapter shall apply with respect to those taxes imposed under Olympia Municipal Code Chapter 5.04 and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section. Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.05 shall apply with respect to the licenses and taxes imposed under this Title 5.~~

Section 6. Amendment of OMC Section 5.05.021. Olympia Municipal Code Section 5.05.021, Definitions – References to Chapter 82.32 RCW, is hereby amended to read as follows:

5.05.021 Definitions -- References to Chapter 82.32 RCW

Where provisions of Chapter 82.32 RCW are incorporated in OMC 5.05.090 of this Title, "Department" as used in the RCW shall refer to the "Director" as defined in OMC 5.05.0402 and "warrant" as used in the RCW shall mean "citation or criminal complaint."

Section 7. Amendment of OMC Section 5.05.025. Olympia Municipal Code Section 5.05.025, Business license required, is hereby amended to read as follows:

5.05.025 Business license required

A. On and after the effective date of this chapter, no person, whether subject to the payment of a tax or not, shall engage in any business or activity in the City for which a license fee or tax is imposed by this Title without having first obtained and being the holder of a valid and subsisting license to do so, to be known as a business license, issued under the provisions of this title, as hereinafter provided, and without paying the license fee or tax imposed by this title. The fee or tax for the business license shall be the license fee or tax imposed by this Title, and in addition, a registration fee shall accompany the application for the license as defined in OMC 5.02.015. Such license heretofore issued pursuant to the provisions of any city ordinance, or any such license hereafter issued pursuant to the provisions of this chapter shall be valid, unless suspended or revoked under OMC 5.02.050, as long as the person to whom the same is issued continues in business and pays the license fees and/or ~~occupation~~ tax due pursuant to the provisions of this Title. Applications for the license shall be made to and issued by the State of Washington Department of Revenue Business License Service on forms provided by that person.

B. The license and registration shall be personal and nontransferable. In case business is transacted at two or more separate places by one taxpayer, a separate registration and license for each place at which business is transacted with the public shall be required, but for such additional registration no additional fee shall be required. Each license shall be numbered, shall show the name, place and character of

business of the taxpayer, such other information as the Director shall deem necessary, and shall at all times be conspicuously posted in the place of business for which it is issued. Where a place of business of the taxpayer is changed, ~~the taxpayer shall return to the Director the license, and a new license shall be issued for the new place of business free of charge.~~

C. No person to whom a license has been issued pursuant to any city ordinance or pursuant to this Title shall suffer or allow any other person for whom a separate license is required to operate under or display the person's license; nor shall such other person operate under or display such license.

D. The registration fee and tax levied in this chapter are additional to any license fee or tax imposed or levied under any law or any other ordinance of the City except as otherwise expressly provided in this chapter.

Section 8. Amendment of OMC Section 5.05.040. Olympia Municipal Code Section 5.05.040, is hereby amended to read as follows:

II. Payment of Tax, Interest, and Penalty

5.05.040 When due and payable -- Reporting periods -- Monthly, quarterly, and annual returns -- Threshold provisions or Relief from filing requirements -- Computing time periods -- Failure to file returns

A. Other than any annual license fee or registration fee assessed under this Title, the tax imposed by this Title or Chapter 5.04 of the Code shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to an annual or monthly reporting period depending on the tax amount owing or type of tax. Until December 31, 2020, tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return. Effective January 1, 2021, tax payments are due on or before the time provided in RCW 82.32.045 (1) thru (3).

B. Taxes shall be paid as provided in this chapter 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 agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is full and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed. Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. Notwithstanding subsection (A) of this section, a person shall not owe any tax under ~~this chapter and Chapter 5.04 of this Code~~ if the following conditions are met:

1. The person's gross income of the business from all activities taxable under Chapter 5.04 of this Code is less than \$20,000 dollars per year or is equal to or less than \$5,000 during any quarter if reporting on a quarterly basis; and
2. The person is not required to collect or pay to the City any other tax or fee which the City is authorized to collect.

Regardless of reporting period assigned, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, does not exceed the threshold amount in the current calendar year or calendar quarter, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity subject to the conditions set forth in subsection D above.

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

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

Section 9. Amendment of OMC Section 5.05.050. Olympia Municipal Code Section 5.05.050, is hereby amended to read as follows:

5.05.050 Payment methods -- Mailing returns or remittances -- Time extension -- Deposits -- Recording payments -- Payment must accompany return -- NSF checks

A. Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's 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 and administrative fees, 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 which 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 that is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director.

C. If the taxpayer submits a written request detailing the reasons for the requested extension that 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, or for any payment not accompanied by the return required as by OMC 5.05.040, 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 chapter and in OMC 4.60.

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-~~insufficient funds" (also known as NSF check) charge in an amount as established and promulgated in writing by the Director is received by the Director. Any registration certificate issued upon payment with a NSF check will be considered void, ~~and shall be returned to the Director.~~

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 chapter.

Section 10. Amendment of OMC Section 5.05.060. Olympia Municipal Code Section 5.05.060, is hereby amended to read as follows:

5.05.060 Records to be preserved -- Examination -- Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this ~~Chapter-Title~~ or Chapter 5.04 shall keep and preserve, for a period of five (5) 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, but not be limited to, copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or 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. All records shall be open for examination at any time during normal business hours by the City or its duly authorized agent.

B. If a person does not keep the necessary records within the City, it shall be sufficient if such person (a) produces within the City such records as may be required by the Director, or (b) bears the cost of examination by the Director's agent at the place where such 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.

C. Any person who fails, or refuses the Director's request, to provide or make available records shall be forever barred from questioning in any administrative or court proceeding or 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. 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 the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

D. Any person who fails to pay all taxes and fees due to the City may be barred from contracting with the City until such time as all taxes and fees are paid in full.

Section 11. Amendment of OMC Section 5.05.080. Olympia Municipal Code Section 5.05.080, is hereby amended to read as follows:

5.05.080 ~~Public work e~~Contracts -- Payment of fee and tax before final payment for work

The Director may, before issuing any final payment to any person performing work under any public-work contract for the City, including those as defined by RCW 39.04.010, require such person to pay in full all license fees or taxes due under this title 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~~.

Section 12. Amendment of OMC Section 5.05.160. Olympia Municipal Code Section 5.05.160, is hereby amended to read as follows:

5.05.160 Tax constitutes debt

Any fee or tax due and unpaid under ~~this chapter~~ Title 4 and Title 5, and all interest and penalties thereon, shall constitute a debt to the City of Olympia 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. If a warrant is issued by the Director for the collection of taxes, increases, and penalties, there is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

Section 13. Amendment of OMC Section 5.05.170. Olympia Municipal Code Section 5.05.160, is hereby amended to read as follows:

5.05.170 Unlawful actions -- Violation -- Penalties

A. It shall be unlawful for any person under this Code:

1. To violate or fail to comply with any of the provisions of this chapter or any other lawful rule or regulation adopted by the Director; or,
2. To make any false statement on any license application or tax return; or,
3. To aid or abet any person in any attempt to evade payment of a fee or tax; or,
4. To fail to appear or testify in response to a subpoena issued pursuant to OMC 5.05.270; or,
5. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter; or
6. To continue to engage in any business activity, profession, trade, or occupation after the revocation of or during a period of suspension of a business license.
7. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Title.

~~B. — Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other fines, penalties or remedies provided by law.~~

~~C. — Any person, or officer of a corporation, 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 fine and imprisonment.~~

B. It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Code Enforcement.

Section 14. Amendment of OMC Section 5.05.180. Olympia Municipal Code Section 5.05.180, is hereby amended to read as follows:

5.05.180 Closing agreement provisions

The Director or designee may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the chapters within this title and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director or designee and the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax 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 designee 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.

Section 15. Amendment of OMC Section 5.05.190. Olympia Municipal Code Section 5.05.180, is hereby amended to read as follows:

5.05.190 Charge-off of uncollectible taxes

The Director or designee may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director or designee ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer. Any charge off greater than \$15,000 must receive prior City Council approval.

Section 16. Amendment of OMC Section 5.05.280. Olympia Municipal Code Section 5.05.180, is hereby amended to read as follows:

IV. Director's Authority

5.05.280 Director to make rules

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter and title or with law for the purpose of carrying out the provisions of this chapter and title, and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 17. Amendment of OMC Section 5.05.295. Olympia Municipal Code Section 5.05.180, is hereby amended to read as follows:

5.05.295 Enforcement Duties of Director and Agents

It is the duty of the Director and agents under the direction and supervision of the Director to assist in the enforcement of the provisions of the license and business tax laws of the City, including the apprehension and assistance in the prosecution of violators of the license and business tax laws of the City and the performance of such other duties as the Director may from time to time require to assist in the enforcement of the provisions of these laws of the City.

Section 18. Amendment of OMC Chapter 5.10.000. Olympia Municipal Code Chapter 5.10.000, is hereby amended to read as follows:

Chapter 5.10

OCCUPATIONAL PERMITS

5.10.000 Chapter Contents

Sections:

5.10.001 Administrative provisions.

5.10.002 Business and occupations tax applies.

5.10.010 License and Occupational Permit -- Required.

5.10.020 Definitions.

5.10.030 General Requirements -- Application Procedure.

5.10.040 General Occupational Permit -- Review of Applicants.

5.10.045 General Occupational Permit -- Background Checks.

- 5.10.050 General Issuance, Fee and Term of Occupational Permit.
- 5.10.060 General Occupational Permit -- Revocation, Suspension, or Denial.
- 5.10.070 Reciprocity.
- 5.10.100 For-Hire Driver Occupational Permit -- Additional Requirements.
- 5.10.110 For-Hire Driver's Occupational Permit -- Other Violations.
- 5.10.120 For-Hire Vehicle Rates to be Filed and Posted.
- 5.10.130 For-Hire Vehicle Passenger Complaints.
- 5.10.200 Solicitor Occupational Permit -- Additional Requirements.
- 5.10.210 Occupational Permit to be carried.
- 5.10.220 Exemptions.
- 5.10.300 Violations -- ~~Misdemeanor~~ ~~Gross Misdemeanor~~ Civil Infraction.

Section 19. Amendment of OMC Chapter 5.10.001. Olympia Municipal Code Chapter 5.10.001, is hereby amended to read as follows:

5.10.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 20. Amendment of OMC Chapter 5.10.002. Olympia Municipal Code Chapter 5.10.002, is hereby amended to read as follows:

5.10.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses required to obtain occupational permits.

Section 21. Amendment of OMC Chapter 5.10.010. Olympia Municipal Code Chapter 5.10.010, is hereby amended to read as follows:

5.10.010 License and Occupational Permit -- Required

This ordinance is enacted to regulate the practice of certain occupations that, by their nature, present a heightened public safety risk to the public.

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.10 shall also apply.

A. For-Hire Vehicle Driver/Operator – It is unlawful for any person to drive a for-hire vehicle and pick up any passenger within the City without first obtaining an occupational permit therefore in the manner provided by this chapter.

B. Locksmith – It is unlawful for any person, to act as a locksmith in the City without first obtaining an occupational permit pursuant to the provisions of this chapter. This chapter does not apply to those exempted under OMC 5.52.100.

C. Solicitor – It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, without first obtaining an occupational permit in the manner provided by this chapter.

Section 22. Amendment of OMC Chapter 5.10.300. Olympia Municipal Code Chapter 5.10.300, is hereby amended to read as follows:

5.10.300 Violations -- ~~Misdemeanor~~ -- ~~Gross Misdemeanor~~ -- Civil Infraction

~~A. — Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

B. — As an additional concurrent penalty, ~~it~~ shall be a civil infraction for a person, firm, limited liability company, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Code Enforcement, follows:

- ~~1. — First offense: Class 3 (\$50), not including statutory assessments.~~
- ~~2. — Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~
- ~~3. — Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Code Enforcement.~~

Section 23. Amendment of OMC Section 5.16.000. Olympia Municipal Code Section 5.16.000 is hereby amended to read as follows:

Chapter 5.16

ADULT ORIENTED BUSINESSES

5.16.000 Chapter Contents

Sections:

5.16.001 Administrative provisions.

5.16.002 Business and occupations tax applies.

5.16.010 Purpose.

5.16.020 Scope.

5.16.030 Definitions.

5.16.040 License required.

5.16.050 License prohibited to certain persons.

5.16.060 Application for license.

5.16.070 Investigation and application.

5.16.080 Issuance of licenses.

5.16.090 Appeal.

5.16.100 License Term - Assignment - Renewals.

5.16.110 Building and operation specifications –Adult cabarets.

5.16.120 Standards of conduct and operation applicable to adult oriented businesses

5.16.130 Regulations applicable to adult arcades, adult bookstores, adult motion picture theaters and other adult oriented businesses.

- 5.16.140 Regulations applicable to video stores not qualifying as adult oriented businesses.
- 5.16.150 Dramatic works and obscenity.
- 5.16.160 Inspections.
- 5.16.170 Hours of operation.
- 5.16.180 Record keeping requirements.
- 5.16.190 Suspension or revocation of licenses and appeal procedure.
- 5.16.200 Suspension or revocation of license - Duration.
- 5.16.210 Signs.
- 5.16.220 Violations -- ~~Misdemeanor~~ ~~Gross Misdemeanor~~ Civil Infraction.
- 5.16.230 Public nuisance declared.

Section 24. Amendment of OMC Section 5.16.001. Olympia Municipal Code Section 5.16.001 is hereby amended to read as follows:

5.16.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 25. Amendment of OMC Section 5.16.002. Olympia Municipal Code Section 5.16.002 is hereby amended to read as follows:

5.16.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

Section 26. Amendment of OMC Section 5.16.010. Olympia Municipal Code Section 5.16.010 is hereby amended to read as follows:

5.16.010 Purpose

It is the intended purpose of this chapter to establish reasonable regulations ~~through licensing of~~ adult oriented businesses, as defined herein, with the goal that criminal activity and antisocial activity not protected by the United States Constitution which is typically committed in conjunction with the operation of adult oriented businesses be prevented. It is not the purpose of this ordinance to prohibit or improperly curtail expression protected by the Washington State Constitution and the United States Constitution or to curtail activity or conditions which, although disapproved of by many, do not endanger the public health, safety, and welfare.

Section 27. Amendment of OMC Section 5.16.040. Olympia Municipal Code Section 5.16.040 is hereby amended to read as follows:

5.16.040 License required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.16 shall also apply.

A. ~~It is unlawful for any person to conduct, manage, or operate an adult oriented business unless such person is the holder of a valid license from the City to do so, obtained in the manner provided in this chapter. It shall be a condition of the issuance or continuation of a business license that all requirements of this chapter be met.~~

B. It is unlawful for any entertainer, employee, or manager to knowingly work in or about or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult oriented business.

C. It is unlawful for any entertainer to perform in an adult oriented business unless such person is the holder of a valid license from the City to do so.

D. It is unlawful for any manager to work in an adult oriented business unless such person is the holder of a valid license from the City to do so. It is unlawful for any owner or manager to allow any entertainer to perform in an adult oriented business without a valid license from the city to do so.

Section 28. Amendment of OMC Section 5.16.220. Olympia Municipal Code Section 5.16.220 is hereby amended to read as follows:

5.16.220 Violations -- ~~Misdemeanor~~ ~~Gross Misdemeanor~~ ~~Civil Infraction~~

~~A. Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

~~B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement, follows:~~

- ~~1. First offense: Class 3 (\$50), not including statutory assessments.~~
- ~~2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~
- ~~3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Civil Enforcement.~~

Section 29. Amendment of OMC Chapter 5.17. Olympia Municipal Code Chapter 5.17, Community Events, is hereby amended to read as follows:

Chapter 5.17

COMMUNITY EVENTS

5.17.000 Chapter Contents

Sections:

5.17.010 License Permit required--Fee.

5.17.020 Community event defined.

5.17.030 Exemption from taxes and regulations.

5.17.040 ~~License-Permit~~ application.

5.17.010 ~~License-Permit~~ required –Fee

No person, firm or organization shall conduct or sponsor a community event within the city without having first procured a ~~license-permit~~ therefor from the city-finance-director. The fee for such license shall be fifty dollars for each event.

5.17.020 Community event defined

For purposes of this chapter, the term "community event" means and includes any festival, celebration, fair or other similar event held in the city with local participation and sponsorship, which event is open to the public and does not exceed seven days in duration during any calendar year.

5.17.030 Exemption from taxes and regulations

All activities including, but not limited to, concessions, food counters, booths for the sale of crafts, memorabilia, souvenirs or other similar items, carnivals, demonstrations or public shows held as part of a community event licensed pursuant to this chapter, which event is sponsored by a nonprofit organization shall be exempt from all licenses, taxes, fees and regulations of Title 5 of this code for the duration of said event. Provided, that amusement devices, as defined in Chapter 5.12 of this code shall not be eligible for exemption hereunder. The term "sponsored" shall, in the case of carnivals, have the same meaning as that term has in Section 3.32.020 of this code, as amended.

5.17.040 ~~License-Permit~~ application

Each sponsor of a community event shall make application for a community event ~~license-permit~~ on a form provided by the city-finance-office. In addition, at least fifteen days prior to the start of the community event, the sponsor shall submit a list of all organizations involved in revenue generating activities which are a part of the event. Only those activities and organizations which are included on said list shall qualify for the tax, fee and license exemption provided by this chapter; provided, that nothing in this chapter prohibits a person or organization not included in said list(s) from conducting business during any such event so long as they comply with this title.

Section 30. Amendment of OMC Chapter 5.20. Olympia Municipal Code Chapter 5.20, Gambling Activities, is hereby amended to read as follows:

Chapter 5.20

GAMBLING ACTIVITIES

5.20.000 Chapter Contents

Sections:

5.20.001 Administrative provisions.

5.20.002 Business and occupations tax applies.

5.20.005 License required.

5.20.010 Tax levied--Authority.

~~5.20.020 Tax applicability determination.~~

5.20.030 Tax payable quarterly--Penalty for late payment.

~~5.20.040 Financial records.~~

5.20.050 Administration and collection.

~~5.20.060 Duties of city clerk-treasurer.~~

~~5.20.070 Violations--Misdemeanor--Gross Misdemeanor--Civil Infraction.~~

5.20.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.20.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.20.005 License required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.20 shall also apply.

5.20.010 Tax levied--Authority

In accordance with RCW 9.46, there is levied upon all persons, associations and organizations who have been duly licensed by the Washington State Gambling Commission:

A. To conduct or operate any card games, a tax of three percent of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes; to conduct or operate any bingo games or raffle games, a tax of five percent (5%) of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes; and to conduct or operate any amusement games, a tax of two percent of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes; provided, however, that any bona fide charitable or nonprofit organization, as defined in RCW 9.46.0209, which has no paid operating or management personnel and has gross income from bingo or amusement games, or both, not exceeding five thousand dollars (\$5,000) per year less the amount awarded as cash or merchandise prizes, shall pay a declaration fee of ten dollars (\$10.00) only and shall be exempt from any further excise or tax or payment of any additional fee; and provided further, no tax under this chapter shall be imposed on the first ten thousand dollars (\$10,000) of gross receipts less the amount awarded as cash or merchandise prizes from raffles conducted by any bona fide charitable or nonprofit organization; and

B. To utilize punchboards or pull tabs pursuant to RCW Chapter 9.46, an excise tax or tax computed at the rate of three percent based upon the gross receipts received in the conduct of such activity when used as a commercial stimulant, as defined in RCW 9.46.0217, and at the rate of seven percent based upon the gross receipts, less the amount awarded as cash or merchandise prizes, received in the conduct of such activity by any bona fide charitable or nonprofit organization; the gross receipts in either case shall be computed by multiplying the number of chances played on such board or pull tab times the price or value of each individual chance per play.

~~5.20.020 Tax applicability determination~~

~~A. For the purpose of identifying who shall be subject to the tax imposed by this chapter, any person, association or organization intending to conduct or operate any gambling activity authorized by Chapter 155, Laws of Washington, 1974 First Extraordinary Session, as amended, shall, prior to commencement of any such activity file with the city clerk treasurer a sworn declaration of intent to conduct or operate such activity, together with a copy of the license issued in accordance with RCW Chapter 9.46, as amended.~~

~~B. Thereafter, for any period covered by such state license or any renewal thereof, any person, association or organization, shall, on or before the last day of the month following the end of the quarterly period in which the tax accrued, file with the city clerk treasurer a sworn statement, on a form to be provided and prescribed by the city clerk treasurer for the purpose of ascertaining the tax due for the preceding quarterly period.~~

5.20.030 Tax payable quarterly--Penalty for late payment

A. The tax imposed by this chapter shall be due and payable in quarterly installments, and remittance therefor shall accompany each return and be made on or before the last day of the month next succeeding the quarterly period in which the tax accrued.

B. ~~For each payment due, if such payment is not made by the due date therefor, there shall be added a penalty as follows:~~

~~1. One to seventeen days' delinquency, ten percent with a minimum penalty of two dollars;~~

~~2. Eighteen to forty days' delinquency, fifteen percent with a minimum penalty of four dollars;~~

~~3. Forty one or more days' delinquency shall be deemed to be a violation of Section 5.20.070. Late returns shall be penalized as per OMC 5.05.~~

5.20.040 Financial records

~~It is the responsibility of all officers, directors and managers of any organization conducting gambling activities to provide access to such financial records as the city clerk treasurer, the city clerk treasurer's authorized representative, or law enforcement officers may require in order to determine compliance with this chapter.~~

5.20.050 Administration and collection

The administration and collection of the tax imposed by this chapter shall be by the ~~city clerk treasurer~~Director, as defined by OMC 5.02.002, and pursuant to rules and regulations as may be adopted by the Washington State Gambling Commission.

5.20.060 Duties of city clerk treasurer

~~The city clerk treasurer shall:~~

~~A. Adopt, publish and enforce such rules and regulations not inconsistent with this chapter as are necessary to enable the collection of the tax imposed by this chapter;~~

~~B. Prescribe and issue the appropriate forms for determination and declaration of the amount of tax to be paid;~~

~~C. Have the power to enter into a contract with Thurston County for the collection of the tax imposed on gambling activities conducted within Olympia.~~

5.20.070 Violations--Misdemeanor--Gross Misdemeanor--Civil Infraction

A. Any person, firm, or corporation who knowingly violates or ~~who~~ fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. ~~As an additional concurrent penalty, i~~It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement. follows:

1. ~~First offense: Class 3 (\$50), not including statutory assessments.~~
2. ~~Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~
3. ~~Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Civil Enforcement.~~

Section 31. Amendment of OMC Chapter 5.32. Olympia Municipal Code Chapter 5.32, Admissions Tax, is hereby adopted to read as follows:

Chapter 5.32

ADMISSION TAX

5.32.000 Chapter Contents

Sections:

- 5.32.001 Administrative provisions.**
- 5.32.002 Business and occupations tax applies.**
- 5.32.005 License required.**
- 5.32.010 Definitions.**
- 5.32.020 Tax Imposed.**
- 5.32.030 Price to be printed on ticket.**
- 5.32.040 Duty to collect and remit--Reports.**
- 5.32.100 Power to adopt regulations for administration and enforcement.**
- 5.32.120 Violations -- Misdemeanor—Gross Misdemeanor—Civil Infraction.**

5.32.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.32.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.20.005 License required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.32 shall also apply.

5.32.010 Definitions

For the purposes of this chapter, words and phrases shall have the following meanings:

A. "Admissions charge," in addition to its usual and ordinary meaning, includes but is not limited in meaning to the following:

1. A charge made for season tickets or subscriptions;

2. A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;
3. A charge made for food and refreshment in any place where free entertainment, recreation, or amusement is provided;
4. A charge made for admission to any place defined in this section;
5. A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which a general admission is charged, the combined charges shall be considered as the admission charge;
6. If a general admission fee is charged for entry onto the premises where an activity occurs (such as, and without limitation, a bowling alley or ice skating rink) and if the activity charge is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge; provided, however, that a general admission fee must be charged for entry onto the premises where an activity occurs before the activity charge can be taxed under this chapter.
7. Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile.
8. If the ticket price is accompanied by a service charge, mailing fee, or other ancillary payment, per ticket and/or per order, whether or not they are printed on the ticket, the admission tax shall be based upon the total sum of the admission price plus any such surcharge(s).
9. Any other charge for entrance and observation.

B. "Nonprofit organization" means an organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study and/or teaching of the performing arts (music, drama, opera, dance or like activity), visual arts, history or science, which for reason of its nonprofit status is considered exempt by the United States government from federal income taxation pursuant to Section 501(C) (3) of the Internal Revenue Code of 1954, 26 U.S.C. Section 501, as now existing or hereafter amended; or a nonprofit organization which sponsors community-wide festival events.

C. "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, social, nonprofit or otherwise.

D. "Place" can be either indoors or outdoors and includes, but is not restricted to, theaters, dance halls, taverns, cabarets, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, bowling alleys, skating rinks, circuses, sideshows, swimming pools, outdoor amusement parks, and such attractions as merry-go-rounds, ferris wheels, dodge 'ems, roller coasters, observation towers, and private clubs.

E. "Director" is as defined by OMC 5.02.002.

5.32.020 Tax Imposed

There is levied and imposed a tax at the rate of one cent per twenty cents or fraction thereof, paid as an admission charge, upon any person who pays to any place such admission charge, as those terms are defined in Section 5.32.010. Any fraction of tax \$0.005 or more shall result in a tax at the next highest full cent.

5.32.025 Exemptions

No tax shall be imposed under the authority of this chapter on the following:

A. Admission charges for any activity of any elementary or secondary school, any governmental entity, or any Nonprofit organization.

B. Events sponsored by nonprofit organizations if the nonprofit organization publicly sponsors and promotes the event, and the nonprofit organization receives the use and benefit of the admission charges collected. For the purposes of this exemption for carnivals, "sponsored" means held pursuant to an agreement between the nonprofit organization and the carnival company whereby the nonprofit organization shall receive an amount equal to at least fifteen percent of the gross admission charges collected during the carnival event.

C. Events sponsored by the City, or where the net proceeds are contributed to a City program.

5.32.030 Price to be printed on ticket

The price, exclusive of the tax to be paid by the person paying for admission, at which every admission ticket or card is sold shall be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place to which admission is gained; and it is unlawful for any person to sell an admission ticket or card on which the name of the vendor or the price is not so printed, stamped, or written, or to sell an admission ticket or card at a price in excess of the price printed, stamped, or written thereon.

5.32.040 Duty to collect and remit –Reports

A. Every person receiving any payment for admissions on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the City as provided. Any person required to collect the tax imposed under this chapter who fails to collect the same or, having collected the same, fails to remit the same to the City in the manner prescribed by this chapter, whether such failure is the result of the person's own act or the result of acts or conditions beyond the person's control, shall nevertheless be personally liable to the City for the amount of such tax and shall, unless the remittance is made as required, be guilty of a violation of this chapter.

B. The tax imposed under this chapter shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the City in quarterly installments. The person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the City may require, showing the amount of the tax upon admissions for which the person is liable for the preceding quarterly period, and shall sign and transmit the same to the City with a remittance for said amount; provided, that the Finance Director may in their discretion require verified annual returns from any person receiving admission payments

setting forth such additional information as the Finance Director may deem necessary to determine correctly the amount of tax collected and payable.

C. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax levied under this chapter, and the same is of a temporary or transitory nature, of which the City shall be the judge, the Finance Director may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the City shall determine; and failure to comply with any requirement of the City as to report and remittance of the tax as required shall be a violation of this chapter. The books, records and accounts of any person collecting a tax levied under this chapter shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the City.

5.24.050 Tax payable quarterly--Penalty for late payment

A. Remittance of the tax imposed by this chapter shall be due and payable in quarterly installments. Remittance therefor shall accompany each return and be made on or before the last day of the month next succeeding the quarterly period in which the tax accrued.

B. Late remittances shall be penalized as per OMC 5.05.

5.32.100 Power to adopt regulations for administration and enforcement

The Finance Director shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax levied under this chapter; and a copy of such rules and regulations shall be on file and available for public examination. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

5.32.120 Violations -- ~~Misdemeanor~~ -- ~~Gross Misdemeanor~~ -- Civil Infraction

A. It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement.

Section 32. Amendment of OMC Chapter 5.48. Olympia Municipal Code Chapter 5.48, Occult Arts, is hereby amended to read as follows:

Chapter 5.48

OCCULT ARTS

5.48.000 Chapter Contents

Sections:

5.48.001 Administrative provisions.

5.48.002 Business and occupations tax applies

5.48.010 License – Required.

5.48.120 Violations -- Civil Infraction.

5.48.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.48.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.48.010 License – Required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.20 shall also apply.

It is unlawful for any person or organization to engage in or hold oneself out as a practitioner of palm reading, phrenology, card reading or other means whereby the future or fortune of persons is predicted for money or other consideration unless the person or person's employer has first secured a license therefor in a manner provided by chapter 5.02.

5.48.120 Violations -- Civil Infraction

A. It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement.

Section 33. Amendment of OMC Chapter 5.50. Olympia Municipal Code Chapter 5.50, Pet Shops, is hereby amended to read as follows:

Chapter 5.50

PET SHOPS

5.50.000 Chapter Contents

Sections:

5.50.001 Administrative provisions.

5.50.002 Business and occupations tax applies

5.50.010 License required.

5.50.020 License renewal.

5.50.030 Revocation or nonrenewal of license.

5.50.040 Definitions.

5.50.050 Facility requirements.

5.50.060 Operational requirements.

5.50.070 Inspection.

5.50.080 Correction notice.

5.50.090 Impoundment.

5.50.100 Violations – Misdemeanor – Gross misdemeanor – Civil infraction.

5.50.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.50.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.50.010 License required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.50 shall also apply.

~~A. No person, firm, partnership, corporation or other entity shall own, maintain or operate a pet shop as defined in this chapter without first obtaining a pet shop license issued pursuant to this chapter.~~

~~B. An application for a pet shop license shall contain the following information:~~

- ~~1. The name, address, telephone number and emergency telephone number of the person, firm or corporation owning the pet shop;~~
- ~~2. The name, address, phone number and emergency phone number of the person managing, operating or otherwise having supervision of the pet shop;~~
- ~~3. The business name, address and location of the pet shop;~~
- ~~4. A statement that the pet shop will maintain and make available care and nutritional requirements for all animals for sale at the pet shop;~~
- ~~5. The name and address of one or more licensed veterinarians who will care for any animals which become sick or injured while at the pet shop;~~
- ~~6. The applicant must attach to the application any necessary approvals from the county health department which are required to assure that adequate provisions for sanitary facilities will be provided;~~
- ~~7. The applicant shall be required to pay a nonrefundable license fee upon filing the application;~~
- ~~8. Within five days after receipt of an application for a pet shop license, the administrative services department shall transmit copies of such application to the planning department and to the director of joint animal control;~~
- ~~9. Within thirty days of receipt of an application for a pet shop license, the license shall be issued unless the planning department has advised that the use or proposed use of the premises is not in conformity with the City zoning code or other applicable land use laws and regulations or that the buildings upon the subject premises fail to meet the requirements of the building, fire, mechanical or plumbing codes applicable to the proposed use or the director of joint animal control has determined that the applicant has previously been convicted of cruelty to animals or a similar offense or that a pet shop or other similar license held by such applicant has been revoked or renewal refused either pursuant to the terms of this chapter or by any other licensing jurisdiction.~~

5.50.020 License renewal

~~Pet shop licenses must be renewed annually.~~

5.50.030 — Revocation or nonrenewal of license

~~If the director of joint animal control determines that a licensee has failed to substantially comply with this chapter after notices set forth in Section 5.50.080 and such failure results in neglect or abuse of any animal in the possession or control of the licensee or a danger to the public health and safety, the director of joint animal control may petition the director of administrative services to revoke said license or deny renewal of said license. The nature of said petition, its processing and determination shall be as follows:~~

~~A. — The petition shall set forth the specific violations upon which it is based.~~

~~B. — The director of administrative services shall set a date for hearing said petition which date shall not be less than fourteen days after service of said petition on the licensee.~~

~~C. — A copy of the petition and notice of the hearing date shall be served either personally or by certified mail, return receipt requested, upon the licensee. Service shall be deemed effective on the date of personal service or three days after such service was deposited in the United States Postal System.~~

~~D. — If the director of administrative services determines upon the basis of the evidence presented at such hearing that it is necessary in order to provide for the humane care and treatment of animals or to protect the public health and safety that such license should be revoked, or renewal of said license be denied, the director of administrative services shall so revoke or deny the renewal of such license. If the director of administrative services finds that there have been violations of this chapter, but that such violations do not warrant the revocation of the license, the director may set forth such lesser conditions for continued operation as shall be appropriate in order to promote humane care and treatment of animals or to better protect the public health and safety. Such remedy may include civil fines not to exceed one hundred dollars.~~

~~E. — If the licensee wishes to appeal the decision of the director, said licensee shall file with the director a written request for review of the director's decision within ten days after the receipt of the decision.~~

~~F. — If review is requested within the time limit set forth above, the decision of the director shall be reviewed by the City Council at a hearing to be held not more than thirty days after the filing of such request for review. The decision of the director shall be held in abeyance pending such review hearing. The council may affirm, reverse or modify the decision of the director.~~

5.50.040 Definitions

The following words and phrases shall have the following meanings for purposes of this chapter:

A. "Pet animal" means dogs, cats, monkeys and other primates, rabbits, birds, guinea pigs, hamsters, mice, snakes, iguanas, turtles, fish and any other species of animal sold or retained for the purpose of being kept as a household pet.

B. "Pet shop" means any store, place or establishment within the city limits of the City where pet animals are held for sale either at wholesale or retail with the intent of making a profit. The term shall not include hobby kennels as defined by this code.

5.50.050 Facility requirements

Any building used for a pet shop shall meet the following requirements:

A. Animal housing shall be structurally sound and designed to prevent the pet animals from injury and shall provide sufficient security to contain the pet animals while preventing entry of unwanted pets.

B. The facilities shall include a washroom with sinks for hot and cold running water.

C. Heating, air cooling and shade shall be provided to protect the pet animals from temperatures to which they are not acclimated.

D. Adequate ventilation shall be provided.

E. A smoke and/or fire detection and alarm system shall be required; provided that any pet shop operating prior to adoption of the ordinance codified in this chapter shall have until April 30, 1992, to comply with this requirement.

5.50.060 Operational requirements

Any person, firm or corporation owning, operating or maintaining a pet shop shall do so in accordance with the following requirements, which are in addition to the tax and license requirements of this Title:

~~A. The license issued in accordance with Section 5.50.010 of this chapter shall be prominently displayed on the premises at all times;~~

~~BA. Upon request, provide the city verification of A statement that the pet shop will the general maintain maintenance, and make available care and nutritional requirements procedures used for all animals for sale at the pet shop;~~

~~CB. No species of pet animals shall be sold or maintained on the premises which are prohibited from such sale or possession by state or federal law;~~

~~DC. Suitable food and bedding and adequate potable water shall be provided. The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, use and size of the animal. The animal feeding schedule shall be posted on the pet shop premises;~~

~~ED. Food shall be stored in a manner which prevents contamination or infestation;~~

~~FE. Provision shall be made for the timely removal of animal excreta, food wastes, soiled bedding, dead animals and debris. Disposal facilities shall be maintained so as not to be a health hazard;~~

~~GF. Sick animals shall be separated from those appearing healthy and normal and shall be removed from display and sale. Timely veterinary care shall be provided for sick or injured animals;~~

~~HG. There shall be an employee on duty at all times during any hours a pet shop is open whose responsibilities shall include the care and welfare of the animals in the facility. An employee or owner shall feed, water and perform the necessary cleaning of pet animals on each day that the pet shop is closed;~~

~~IH. Pet animals shall be immunized from disease as is usual and customary for the animal's age and species. Records of vaccination shall be subject to inspection and shall be provided to a buyer;~~

~~JI. Reasonable care shall be taken not to place for sale, trade or adoption any pet animal which is diseased or injured.~~

5.50.070 Inspection

It shall be a condition of the issuance or continuation of a business license that animal control officers shall be permitted to inspect all animals and the premises where the animals are kept at reasonable times to protect the health and safety of the animals and the community. Such right of inspection shall extend not only to the pet shop, but to any place within the joint animal control's jurisdiction where pet animals held for sale through said pet shop are located or kept. If permission for such inspection is refused, a correction notice shall be issued.

5.50.080 Correction notice

If an animal control officer determines that a licensee has violated any provision of this chapter the officer shall issue a correction notice requiring such violation to be remedied within seven days; provided that, if such violation endangers the immediate health or safety of an animal in the possession or under the control of the licensee, such correction shall be required within twenty-four hours. If the violation identified in the inspection notice is not timely corrected, the license may be revoked under the procedures of ~~this chapter~~ OMC 5.02 and 5.05.

5.50.090 Impoundment

An animal control officer may impound any animal if a licensee fails to comply with a correction notice issued under Section 5.50.080 and said animal control officer determines that any animal in the possession or under the control of the licensee to be disabled or diseased due to the neglect or abuse, or the condition of any animal that constitutes a threat or danger to the public health or safety. The animal being impounded shall be taken to a veterinarian designated in the licensee's application for treatment. The licensee shall be responsible for the veterinary bill.

5.50.100 Violations – ~~Misdemeanor~~ – ~~Gross misdemeanor~~ – Civil infraction

A. ~~Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

B. ~~As an additional concurrent penalty, i~~It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement.~~follows:~~

1. ~~First offense: Class 3 (\$50), not including statutory assessments.~~

2. ~~Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~

3. ~~Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Code Enforcement.~~

Section 34. Amendment of OMC Chapter 5.52. Olympia Municipal Code Chapter 5.52, Locksmiths, is hereby amended to read as follows:

Chapter 5.52

LOCKSMITHS

5.52.000 Chapter Contents

Sections:

5.52.001 Administrative provisions.

- 5.52.002 Business and occupations tax applies
- 5.52.010 Definitions.
- 5.52.020 License required.
- 5.52.050 Occupational permit required.
- 5.52.070 Exemptions.
- 5.52.080 Violations – ~~Misdemeanor~~ ~~Gross misdemeanor~~ Civil infraction.

5.52.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.52.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.52.010 Definitions

The following terms, for the purposes of this chapter, shall have the following meanings:

- A. "Locksmith" means any person who, for hire, is engaged in the installation, removal, adjustment or repair of any locking or security device or any type used for doors, safes, windows or other similar purpose, and performs such service on the customer's premises.
- B. "Locksmith business" means any person, firm or corporation who holds that person or itself out as a business providing the services of a locksmith.

5.52.020 License required

It is unlawful for any person, firm or corporation to act as a locksmith or to engage in business as a locksmith business in the City without first obtaining a license pursuant to the provisions of OMC 5.02._
Any additional licensing or permitting requirements of this Chapter 5.52 shall also apply.

5.52.050 Occupational permit required

Every locksmith and employee of a locksmith business shall at all times have in the locksmith's and employee's possession an occupational permit issued by the Police Department. Upon the revocation, suspension or expiration of any such license, such identification card shall be surrendered to the chief of police.

5.52.070 Exemptions

The provisions of this chapter shall not apply to any officer or employee of any department or agency of the United States or of any state, county, city or other municipal corporation while engaged in the performance of the officer's or employee's official duties.

5.52.080 Violations – ~~Misdemeanor~~ ~~Gross misdemeanor~~ Civil infraction

A. ~~Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

B. ~~As an additional concurrent penalty, i~~It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have

committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Code Enforcement, follows:

- ~~1. First offense: Class 3 (\$50), not including statutory assessments.~~
- ~~2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~
- ~~3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Code Enforcement.~~

Section 35. Amendment of OMC Section 5.55.000. Olympia Municipal Code Section 5.55.000 is hereby amended to read as follows:

Chapter 5.55

SECURITY ALARM BUSINESSES

5.55.000 Chapter Contents

Sections:

- 5.55.001 Administrative provisions.
- 5.55.002 Business and occupations tax applies
- 5.55.010 Purpose.
- 5.55.011 Definitions.
- 5.55.020 License Required.
- 5.55.025 Additional Licensing process.
- 5.55.030 License renewal.
- 5.55.040 Control number.
- 5.55.050 Installation standards.
- 5.55.060 Monitoring standards.
- 5.55.070 Public disclosure requirements.
- 5.55.080 Penalties for non-compliance.
- 5.55.090 Appeals.

Section 36. Amendment of OMC Section 5.55.001. Olympia Municipal Code Section 5.55.001 is hereby amended to read as follows:

5.55.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 37. Amendment of OMC Section 5.55.002. Olympia Municipal Code Section 5.55.002 is hereby amended to read as follows:

5.55.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

Section 38. Amendment of OMC Section 5.55.020. Olympia Municipal Code Section 5.55.020 is hereby amended to read as follows

5.55.020 License Required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.55 shall also apply.

- A. It is unlawful for any alarm business to sell, lease, maintain, service, repair, alter, replace, move, install, respond to, or monitor security alarm systems located in the City without first obtaining an alarm business license pursuant to the provisions of this Chapter.
- B. It is unlawful for any retail businesses to engage in the selling of security alarm systems or devices designed for "do-it-yourself" installation without first obtaining an alarm business license pursuant to the provisions of this Chapter.
- C. Alarm businesses engaged in the installation, maintenance, and servicing of security alarm systems may also be required to have additional professional and technical licenses and to comply with other applicable codes.

Section 39. Amendment of OMC Section 5.55.025. Olympia Municipal Code Section 5.55.025 is hereby amended to read as follows

5.55.025 Additional Licensing process

- A. Applications for an additional license under this Chapter must be available from and be submitted to the City Clerk (or designee).
- B. The license application must include, but is not limited to, the following:
 - 1. An affidavit signed by a person authorized to act on behalf of the business committing the alarm business to comply with the provisions of this Chapter and OMC Chapter 16.46.
 - 2. If the alarm business has had its license revoked under this Chapter, and is reapplying for a new license, an affidavit signed by a person authorized to act on behalf of the business detailing the corrective steps taken to restore eligibility for a license.
- C. The City Clerk (or designee) shall issue a license under this Chapter to an alarm business that meets the following requirements:
 - 1. The alarm business has submitted the application materials specified in OMC 5.55.025(B);
 - 2. The alarm business has remitted the required license fee.
 - 3. The alarm business is in compliance with the provisions of this Chapter and OMC Chapter 16.46.

Section 40. Amendment of OMC Section 5.55.040. Olympia Municipal Code Section 5.55.040 is hereby amended to read as follows:

5.55.040 Control number

- A. On receipt of confirmation from the City Clerk (or designee) that an alarm business has been issued an additional license under this Chapter, the Alarm Administrator shall assign the licensee a unique control number.
- B. The assigned control number remains valid for as long as the alarm business to which it is assigned remains licensed under this Chapter.

C. To register security alarm systems at security alarm sites in the City or make alarm dispatch requests to alarm sites in the City, the alarm business may be required to provide the Department (or designee) with its valid control number in the manner prescribed by the Alarm Administrator.

D. No alarm business shall presume, anticipate, or expect the registration of a security alarm system or police response to an alarm dispatch request in any circumstance where the alarm business has not been issued a valid control number, as specified in OMC 5.55.040(C).

Section 41. Amendment of OMC Section 5.60.000. Olympia Municipal Code Section 5.60.000 is hereby amended to read as follows:

Chapter 5.60

SECONDHAND DEALERS

5.60.000 Chapter Contents

Sections:

5.60.001 Administrative provisions.
5.60.002 Business and occupations tax applies
5.60.010 Definitions.
5.60.015 License required.
5.60.020 Exemptions.
5.60.070 Recordkeeping requirements.
5.60.080 Access to records and property for inspection.
5.60.090 Pawn tickets.
5.60.100 Daily report of transactions to chief of police.
5.60.110 Redemption of pawned goods.
5.60.120 Limitations on receiving property.
5.60.160 Violations – ~~Misdemeanor~~ ~~Gross misdemeanor~~ Civil infraction.

Section 42. Amendment of OMC Section 5.60.001. Olympia Municipal Code Section 5.60.001 is hereby amended to read as follows:

5.60.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 43. Amendment of OMC Section 5.60.002. Olympia Municipal Code Section 5.60.002 is hereby amended to read as follows:

5.60.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

Section 44. Amendment of OMC Section 5.60.015. Olympia Municipal Code Section 5.60.015 is hereby amended to read as follows:

5.60.015 License required

No person, firm or corporation shall engage in any or the businesses defined in Section 5.60.010, without procuring a license therefor as required in Chapter 5.02. It is unlawful for any person, firm or corporation

to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.60 shall also apply.

Section 45. Amendment of OMC Section 5.60.160. Olympia Municipal Code Section 5.60.160 is hereby amended to read as follows:

5.60.160 Violations – ~~Misdemeanor~~—~~Gross misdemeanor~~—Civil infraction

A. ~~Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

B. ~~As an additional concurrent penalty, it shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement, follows:~~

1. ~~First offense: Class 3 (\$50), not including statutory assessments.~~

2. ~~Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~

3. ~~Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Code Enforcement.~~

C. ~~The Director of Finance and Budget may revoke the license of any person, firm, or corporation violating or failing to comply with any of the provisions of this chapter after written notice and an opportunity to be heard.~~

Section 46. Amendment of OMC Chapter 5.64. Olympia Municipal Code Chapter 5.64, Business Licenses, is hereby amended to read as follows:

Chapter 5.64

SOLICITORS

5.64.000 Chapter Contents

Sections:

5.64.001 Administrative provisions.

5.64.002 Business and occupations tax applies.

5.64.010 Defined.

5.64.020 License— Required.

5.64.025 Occupational permit – Required.

5.64.060 Violations – ~~Misdemeanor~~—~~Gross Misdemeanor~~—Civil Infraction.

5.64.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.64.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.64.010 Defined

A "solicitor," within the meaning of this chapter, is any person who goes from house to house, or place to place, in the City, selling or taking orders for or offering to sell or take orders for goods, wares or merchandise, for present or future delivery, or for the making, manufacturing, or repairing of any article or thing whatsoever, for present or future delivery except those selling to merchants for resale; providing, however, that this section and chapter shall not apply to persons soliciting goods to be shipped from one state to another in interstate commerce.

5.64.020 License— Required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.64 shall also apply. It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, unless the business they represent shall have first secured a business license in the manner provided by Chapter 5.02.

5.64.025 Occupational permit – Required

It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, unless they have first secured an occupational permit in the manner provided by Chapter 5.10.

5.64.060 Violations -- Civil Infraction

A. It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement.

Section 47. Amendment of OMC Chapter 5.68. Olympia Municipal Code Chapter 5.68, For-hire Vehicles, is hereby amended to read as follows:

Chapter 5.68

FOR-HIRE VEHICLES

5.68.000 Chapter Contents

Sections:

- 5.68.001 Administrative provisions.
- 5.68.002 Business and occupations tax applies.
- 5.68.010 Purpose.
- 5.68.020 Definitions.
- 5.68.030 Vehicle license required.
- 5.68.032 Occupational permit – Required.
- 5.68.035 Exemptions.
- 5.68.040 Issuance of vehicle for hire license.
- 5.68.050 Liability insurance.
- 5.68.060 Rates to be posted.

- 5.68.090 Complaint inspection.
- 5.68.100 Revocation, suspension or denial of vehicle for-hire license.
- 5.68.110 Prohibited acts.
- ~~5.68.120 For hire driver's occupational permit Required.~~
- 5.68.160 Refusal to pay fare.
- 5.68.170 Violations – ~~Misdemeanor~~ ~~Gross misdemeanor~~ Civil infraction.

5.68.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.68.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.68.010 Purpose

Under the police power of the City, this chapter is intended to enact reasonable regulations governing the operation of taxicabs (for-hire vehicles) within the City ~~and to license persons who drive taxicabs~~. These regulations are necessary to protect the health, safety and welfare of the citizens of the City who use these vehicles as transportation.

5.68.020 Definitions

For purposes of this chapter, the terms set forth below shall have the following meanings:

- A. "Director" ~~means the director of administrative services for the City~~ is as defined in OMC 5.05.002.
- B. "Driver and operator" means the person physically engaged in driving a for-hire vehicle, whether or not said person is the owner of or has any financial interest in said vehicle.
- C. "For-hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except auto stages, buses and ride share vehicles. The term primarily includes taxicabs.
- D. "Limousine" wherever used in this chapter means a vehicle operated at a specified cost per hour or trip, and used for the transportation of passengers who have arranged for their transportation through the business office of the operator.
- E. "Person" means any natural person of either sex, firms, corporations, partnerships and associations either acting by themselves or by servant, agent or employee. The singular shall include the plural and words referring to a specific gender may be extended to any other gender.

5.68.030 LVehicle license required

~~A. No for hire vehicle shall be operated upon the streets of the City without being licensed under this chapter. Such license, if issued, shall be for the calendar year, or any portion thereof and shall be effective for such period of time unless sooner suspended or revoked as provided in this chapter.~~

~~B. Application for a for hire vehicle license shall be filed with the director. The application shall contain the following:~~

- ~~1. The full name and both business and residence addresses of the owner;~~
- ~~2. The number, kind, make, condition and seating capacity of each vehicle;~~
- ~~3. The number of vehicles to be used; and~~

~~4. The state permit number and the vehicle license number issued by the state at the time of application, licensee shall furnish them to the director within fifteen days of issuance of the license hereunder.~~

~~C. Each application shall be accompanied by the payment of an annual license fee in the amount of thirty dollars per for hire vehicle; provided, that the fee assessed hereunder shall be reduced to ten dollars upon a showing by the applicant that a for hire vehicle license has been procured for the calendar year in question, with full fee paid and vehicle inspection approved from either the City of Lacey or Tumwater. In addition, the owner/applicant shall provide Olympia with the following information:~~

~~1. Proof that the owner/applicant has procured all licenses or permits required by the laws of the state of Washington for the operation of such for hire vehicles. If these permits or licenses are not available from the state at the time of application, licensee shall furnish such proof to the director within fifteen days of issuance of the license hereunder;~~

~~2. Proof of insurance for each vehicle as required by this chapter;~~

~~3. Proof that the owner/applicant has complied with the inspection requirements of this chapter;~~

~~4. Proof that the owner/applicant owns or has a leasehold interest in the vehicle(s) for the term of the license.~~

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.68 shall also apply.

5.68.032 Occupational permit – Required

It is unlawful for any person to operate a for-hire vehicle within the meaning and application of this chapter, unless they have first secured an occupational permit in the manner provided by Chapter 5.10.

5.68.035 Exemptions

Auto stages, school buses operating exclusively under a contract to a school district, ride-sharing vehicles under Chapter 46.74 RCW, limousine carriers licensed under Chapter 46.72A RCW, vehicles used by nonprofit transportation providers for elderly or handicapped persons and their attendants under Chapter 81.66 RCW, vehicles used by auto transportation companies licensed under Chapter 81.68 RCW, vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices, and vehicles used by charter party carriers of passengers and excursion service carriers licensed under Chapter 81.70 RCW.

5.68.040 Issuance of vehicle for hire license

~~A. Upon receipt of a license application under this chapter accompanied by the appropriate fee required and the information required with the application, the director shall issue the license to the applicant if the application meets the standards of this chapter.~~

~~B. Licenses are renewable upon compliance with the requirements of this chapter. The license renewal fee shall be the same as the original license fee.~~

~~C. Licenses issued hereunder shall be nontransferable.~~

~~D. Each operator's license issued as herein provided shall be granted upon the express condition that the operator shall provide the service to the public on a twenty-four hour daily basis and telephone service shall be maintained so that prospective for hire users may call for service at any time. Provided,~~

~~that if a licensee experiences equipment malfunction which temporarily prevents operation on a twenty-four hour basis, the licensee shall maintain twenty-four hour telephone service and shall advise any caller of said malfunction and shall resume twenty-four hour service as soon as is reasonably possible.~~

5.68.050—Liability insurance

~~A. Upon application for a vehicle for hire license, every applicant shall file with the director evidence of an insurance policy on a form approved by the city attorney. Said policy shall provide liability insurance coverage for each and every vehicle owned or operated by the applicant issued by an insurance company or companies authorized to do business in the state. The policy shall provide coverage for injury to or death of any person injured or killed in any manner for which the owner or operator of said vehicle would be liable on account of any liability imposed by law, regardless of whether the vehicle was being driven by the owner, the owner's agent, employee or lessee. Said policy shall contain coverage limits in an amount of not less than five hundred thousand dollars for each occurrence or in a lesser amount approved by the city attorney if procurement of said coverage is not feasible.~~

~~B. Every such insurance policy shall be continued in full force, notwithstanding any recovery thereon and shall provide that the liability of the insurer shall not be affected by the insolvency or bankruptcy of the insured.~~

~~C. Each insurance policy required hereunder shall extend for the period to be covered by the license applied for and the insurer shall be obliged to give the director not less than ten days' written notice in the event of any change or cancellation prior to the expiration date. The cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued hereunder for the vehicle covered by such policy, unless another insurance policy to comply with the provision of this section shall be provided and be in effect at the time of such cancellation or termination.~~

5.68.060—Rates to be posted

~~A. Each for hire licensee hereunder, except limousine operators, shall conspicuously display in the interior of the vehicle a schedule of the rates charged to the public. This posting must be located in the passenger compartment in a typewritten notice so as to be easily read by a passenger. The schedule shall include rates for the following:~~

- ~~1. Minimum charge;~~
- ~~2. Rate per mile or fraction thereof above the minimum;~~
- ~~3. Charges for each additional passenger above one;~~
- ~~4. Charge for vehicle waiting time;~~
- ~~5. Additional charge for baggage or suitcases;~~
- ~~6. Any separate rate for service during the hours of midnight to six a.m.~~

~~B. When the licensee changes its rates, in total or in part, the new rates shall be posted within the interior of the vehicle prior to the effective date of the new rates.~~

~~C. The licensee shall charge only those rates set forth in a schedule of rates required under this section.~~

5.68.090 Complaint inspection

A. Upon receipt of a passenger complaint, the ~~director~~ City shall evaluate same and, if deemed appropriate, send written notice to the licensee, either personally or by mail with a certificate of mailing attached. The notice shall specify the vehicle license number, the nature of the complaint received and the date upon which the complaint was conveyed. If the complaint alleges a vehicle defect, the notice will

require that the licensee or the licensee's agent present the vehicle for inspection to the Olympia chief of police or the chief of police's designee within five days of receipt of the notice or be subject to license revocation proceedings under this chapter.

B. If upon inspection the vehicle is determined to be in violation of the standards promulgated pursuant to this chapter, the chief of police will notify the ~~d~~Director of said violation.

5.68.100 Revocation, suspension or denial of business vehicle for hire license

A. ~~Any license required hereunder may be revoked, suspended or denied if the director finds that~~ Renewal or continuation of the business license for a for-hire business is contingent on the following additional conditions:

1. The applicant/licensee has failed to comply with the inspection requirements of this chapter;
2. A for-hire vehicle is being operated in an unsafe condition which constitutes a danger to the safety and welfare of passengers or the public;
3. The licensee has failed to ~~maintain~~ comply with the requirements of obtaining a license ~~State of Washington current laws and rules for Taxis and for-hire vehicles;~~
4. The licensee has charged rates which exceed those set forth in the posted or filed rate schedule;
5. The licensee has failed to procure and maintain liability insurance ~~as required by this chapter;~~
6. The licensee has violated Section 5.68.110 of this chapter.

B. Prior to the revocation, suspension or denial of a ~~for-hire vehicle~~ business license hereunder, the ~~director~~ city shall notify the licensee/applicant at least five days prior to such suspension, revocation or denial. Said notice shall advise the licensee/applicant that the licensee/applicant has the right to a hearing ~~before said director~~ prior to the effective date of any such suspension, revocation or denial.

5.68.110 Prohibited acts

In addition to other provisions of this chapter, it is a violation for any licensee to:

- A. Falsify any record, document or information required to be kept or submitted to the City by this chapter;
- B. Drive or authorize any person to drive a for-hire vehicle which is not properly equipped and is safe condition as required by provisions of this chapter, as now or hereafter amended;
- C. Drive or authorize any person to drive a for-hire vehicle which is not equipped with seat belts for all passengers;
- D. Allow the operation of any for-hire vehicle by a driver who is not licensed under the provisions of ~~Section 5.68.120 of this chapter~~ or who is under the influence of intoxicating liquor or drugs while operating the for-hire vehicle.

~~5.68.120 For hire driver's occupational permit—Required~~

~~No person shall drive a for-hire vehicle within the City without first obtaining an occupational permit as required in Chapter 5.10.~~

5.68.160 Refusal to pay fare

It is unlawful for any person to refuse to pay the posted fare for a for-hire service after the service has been rendered.

5.68.170 Violations – Misdemeanor—Gross misdemeanor—Civil infraction

A. ~~Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.~~

B. ~~As an additional concurrent penalty, i~~It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement. follows:

1. ~~First offense: Class 3 (\$50), not including statutory assessments.~~
2. ~~Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.~~
3. ~~Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

~~See also OMC Chapter 4.44, Uniform Code Enforcement.~~

Section 48. Amendment of OMC Chapter 5.72. Olympia Municipal Code Chapter 5.72, Towing Services, is hereby amended to read as follows:

Chapter 5.72

TOWING SERVICES

5.72.000 Chapter Contents

Sections:

- 5.72.001 Administrative provisions.
- 5.72.002 Business and occupations tax applies
- 5.72.010 Operator defined.
- 5.72.020 Licenses required—Fees.
- ~~5.72.030 License application requirements.~~
- 5.72.090 Operator at scene of accident.
- 5.72.100 Intercepting police calls prohibited.
- 5.72.110 Gratuity for information prohibited.
- 5.72.120 Grounds for revocation of license.
- 5.72.125 Complaint investigation.
- ~~5.72.130 Enforcement—Notice of appeal—Hearing.~~
- 5.72.140 Violations – Misdemeanor—Gross misdemeanor—Civil infraction.

5.72.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.72.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.72.010 Operator defined

For the purpose of this chapter a wrecker or towing operator hereinafter referred to as "operator" means any person who engages in the impounding, transporting or storage of unauthorized vehicles or the disposal of abandoned vehicles.

For purposes of this section, "unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

A. Public locations:

- | | | |
|----|-----------------------------------------------------------------------------------------|-------------|
| 1. | Constituting an accident or a traffic hazard as defined in RCW 46.55.113 | Immediately |
| 2. | On a highway and tagged as described in RCW 46.55.085 | 24 hours |
| 3. | In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 | Immediately |

B. Private locations:

- | | | |
|----|--------------------------------------------------------------------------|-------------|
| 1. | On residential property | Immediately |
| 2. | On private, nonresidential property, properly posted under RCW 46.55.070 | Immediately |
| 3. | On private, nonresidential property, not posted | 24 hours |

5.72.020 Licenses required—Fees

~~No operator shall engage in business within the City or offer such service therein without first applying for and obtaining a towing operator's base license, the annual fee for which is thirty dollars (\$30.00). The expiration date for all such licenses shall be in accordance with OMC 5.02.020.~~

~~In addition to the above, an additional twenty five dollars (\$25.00) shall be assessed for any new license issued under this chapter for the first year of such license. This assessment is necessary to defray the administrative costs in reviewing an application and issuing a license.~~

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.72 shall also apply.

It is unlawful for any tow company to operate or cause to operate within Olympia city limits any tow truck for the purpose of providing towing services unless the tow company has a current registration certificate required by RCW 46.55.020.

5.72.030 License application requirements

~~Applications for licenses issued under this chapter shall be made upon blank forms prepared and made available by the Director and sworn to by the applicant which shall include:~~

~~A. The name or assumed name under which the applicant is doing business, home address, and proposed business address of the applicant;~~

~~B. The description including the make, model and serial number and company number, if any, of the tow trucks owned or operated by the applicant;~~

~~C. Such other information as the Director shall reasonably require to effectuate the purpose of this chapter.~~

5.72.090 Operator at scene of accident

It is unlawful for the operator or driver of any wrecker or towing car to go to any place where a vehicular accident has occurred unless called by the owner of a disabled vehicle or the owner's authorized representative or by a police officer. If any wrecker or towing car is called to the scene of a vehicular accident by someone other than a police officer, the operator shall as soon as reasonably practical notify the Police Department.

5.72.100 Intercepting police calls prohibited

It is unlawful for the operator or driver of any wrecker or towing car to intercept or monitor police calls by shortwave radio or otherwise, for the purpose of going to the scene of a disabled motor vehicle.

5.72.110 Gratuity for information prohibited

It is unlawful for the operator, agent or driver or any wrecker or towing car to offer or pay a gratuity or reward to anyone for furnishing information as to the location of a disabled vehicle, or for anyone to accept or receive such gratuity or reward.

5.72.120 ~~Grounds for revocation of license~~Revocation, suspension or denial of business license

Renewal or continuation of the business license for a towing business is contingent on the following additional conditions:~~The grounds for the revocation of a license issued under this chapter are as follows:~~

A. The license was procured by fraudulent conduct or false statement of a material fact, or that a material fact concerning the applicant was not disclosed at the time of the applicant's making application.

B. The licensee, the licensee's agent or representative has offered to pay or has paid directly or indirectly a gratuity or reward to any person not a bona fide employee of the operator for furnishing information as to the location of a disabled vehicle.

C. The licensee has violated any provisions of Section 5.72.070 or any of the rules and regulations as established under Section 5.72.080.

D. If any employee of the City or any of its departments has any interest, whether as an owner, operator, partner, employee or otherwise, either directly or indirectly, in the business of an operator licensed under this chapter.

5.72.125 Complaint investigation

A. Upon receipt of a complaint, the City shall evaluate same and, if deemed appropriate, send written notice to the licensee, either personally or by mail with a certificate of mailing attached. The notice shall specify the vehicle license number, the nature of the complaint received and the date upon which the complaint was conveyed. If the complaint alleges a vehicle defect, the notice will require that the licensee or the licensee's agent present the vehicle for inspection to the Olympia chief of police or the chief of police's designee within five days of receipt of the notice or be subject to license revocation proceedings under this chapter.

B. If upon investigation the business is determined to be in or have been in violation of the standards promulgated pursuant to this chapter, the chief of police or code enforcement officer will notify the Director of said violation.

5.72.130 — Enforcement — Notice of appeal — Hearing

The Director, through the division of licenses and standards of the Director's office, shall enforce this chapter with the assistance of the chief of police. If the Director finds that any licensee has violated or failed to comply with any provision of this chapter, the Director shall make a written record of such finding, and shall specify therein the particulars and the Director may revoke or suspend the license for a period to be fixed by that Director, in which event the license shall be surrendered to the Director and cancelled by that Director in case of revocation, or returned to the licensee on expiration of the period of suspension; provided, however, such revocation for violation of any of the provisions of this chapter shall not relieve the licensee of the penalties provided in Section 5.72.140. Any licensee whose license is revoked or suspended shall have the right to appeal to the City Council from such revocation or suspension by filing with the Director a written notice within five days after the entry of the order of revocation or suspension. The notice of appeal shall specify an address at which the licensee may be given notice of hearing on the appeal. The City Council shall hear the appeal, or may refer the same to a committee for hearing. At the hearing the licensee shall be entitled to appear in person and offer evidence pertinent to the revocation or suspension; and the Director shall likewise be entitled to be heard at the hearing and offer evidence in support of the Director's order of revocation or suspension. The City Council shall determine by resolution whether the revocation or suspension shall be sustained, and its action in that respect shall be final and conclusive. From the time of filing the written notice of appeal until the hearing and action by the City Council, the order of the Director of revocation or suspension shall be ineffective.

5.72.140 Violations – Misdemeanor — Gross misdemeanor — Civil infraction

A. Any person, firm, or corporation who knowingly violates or who fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. — As an additional concurrent penalty, iIt shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement. follows:

1. — First offense: Class 3 (\$50), not including statutory assessments.
2. — Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. — Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Civil Enforcement.

Section 49. Amendment of OMC Chapter 5.76. Olympia Municipal Code Chapter 5.76, Miscellaneous Business, is hereby amended to read as follows:

Chapter 5.76

MISCELLANEOUS BUSINESSES

5.76.000 — Chapter Contents

Sections:

5.76.010 — License required.

5.76.020 — License required — Posting.

5.76.030 — License application filing.

5.76.040 — License fees.

5.76.050 — Suspension or revocation of licenses — Hearing.

5.76.060 — License terms and expirations.

5.76.070 — Violations — Misdemeanor — Gross misdemeanor — Civil infraction.

5.76.010 — License required

It is unlawful for any person, firm or corporation to engage in any of the businesses, trades or occupations enumerated in this chapter within the corporate limits of the City without having first obtained a license therefor as provided in this chapter. Any business not mentioned elsewhere in Title 5 of the OMC shall make application at the State of Washington Department of Revenue Business License Service for a business license.

5.76.020 — License required — Posting

The license provided for herein shall be posted and shall remain posted in a conspicuous place in the place of business of the licensee.

5.76.030 — License application filing

Application for licenses shall be made as provided in Section 5.02.020.

5.76.040 — License fees

The license fees for the various businesses, trades and occupations included in this chapter are fixed at \$30.00.

Any person, firm or corporation which pays a business and occupation tax pursuant to Chapter 5.04 of this code and does not pay a license fee to the City of Olympia other than that fee imposed by Section 5.05.025 of this code, shall be licensed as miscellaneous service or activity, the fee for which is the sum of thirty dollars per year. It is intended that this license cover persons generally engaged in the rendering of any type of service for hire for which a specific license has not been required under the terms of this title.

5.76.050 — Suspension or revocation of licenses — Hearing

The City Council may at any time suspend or revoke any license issued under the authority of this chapter, whenever the holder thereof has been convicted in any court of competent jurisdiction for gambling on the premises or permitting gambling upon the premises in violation of any state law, or ordinance of the City; or for conviction of the sale of liquor upon the premises or the possession of liquor for the purpose of sale upon the premises in violation of any law of the United States, the state, or any ordinance of the City, or the holder of any taxicab license, who is convicted in any court competent in its jurisdiction, for the violation of any of the United States or state laws or city ordinances relative to the sale or possession of liquor or bootlegging, or for the conviction of any crime involving moral turpitude committed upon the premises, or where the place is a frequent gathering place of people who by loud and raucous noise, fighting, property damage, excessive littering or other violations of the Olympia Municipal Code create a public nuisance or unreasonably disturb others; but a hearing thereon shall be had before such revocation, and the person, persons, firm or corporation holding such license shall be

notified in writing of the intention of the City Council to revoke the license at a regular meeting of the City Council at a time and date appointed in the notice giving the licensee at least six days' notice prior to the date for the hearing and the holder of the license may appear at the time fixed for the hearing and be heard in opposition to such revocation.

5.76.060 License terms and expirations

Each City license issued shall have a term as determined by the State of Washington Department of Licensing in cooperation with the City. The City license term or expiration date will be coordinated with the terms or expiration date of all other licenses or permits required by the State for each business.

5.76.070 Violations Misdemeanor Gross misdemeanor Civil infraction

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Civil Enforcement.

Section 50. Amendment of OMC Section 5.82.080. Olympia Municipal Code Section 5.82.080, Business License Required for Rental Housing Units, is hereby amended to read as follows:

5.82.080 Business License Required for Rental Housing Units

A. Unless exempt under subsection B below, each and every person making available for rent or renting one or more rental units within the City limits shall, in accordance with Chapter 5.02 OMC, obtain and maintain a business license. One business license covers all of a person's rental units within the City; however a separate business license is required for any other business operated by such person, in accordance with OMC 5.02.005.

B. Exemptions. A landlord is exempt from the requirement to obtain a business license under this section if the landlord rents only the following types of rental units:

1. A single rental unit located on the same property as an owner-occupied residence;
2. Rental units exempt from the residential rental housing registration requirements under OMC 5.82.070(B). The operation of dwelling or lodging types that do not fall under this Chapter, such as hotels, motels, short-term rentals, shelters, transitional housing, and housing accommodations at an

institution; does not fall under this Chapter and this exemption. ~~may~~ Such business activities require an Olympia business license under a different Olympia Municipal Code provision.

C. Certificate of compliance. As a condition of the issuance or renewal of a business license, a landlord shall, prior to the renewal of the business license, possess a certificate of compliance issued by the City, certifying that each rental unit made available for rent or rented by the landlord has been inspected as required by OMC 5.82.090.

D. Declaration of compliance. As a condition of the issuance or renewal of a business license, a landlord shall, prior to the issuance of the business license, provide to the City a valid declaration of compliance declaring that each rental unit made available for rent or rented by the landlord complies with the requirements of this Chapter and RCW Chapter 59.18 and that there are no conditions present in the rental unit or units that endanger or impair the health or safety of any tenant.

E. Denial, suspension, or revocation of license – Appeal

1. Denial or revocation of business license. A landlord may be denied a business license, or a landlord's business license may be suspended or revoked, for any of the following reasons:

- a. The landlord fails to obtain a certificate of compliance as required by this section;
- b. The certificate of compliance or business license was procured by fraud or false representation of fact;
- c. The landlord has failed or fails to comply with any of the provisions of this Chapter;
- d. The landlord fails to pay any fee due to the City under this Chapter;
- e. The landlord's rental unit or units is subject to a notice of violation for a municipal code violation which has been deemed committed or found to have been committed;
- f. Any reason set forth in OMC 5.02.050.

2. Process – Appeal. The denial, suspension, or revocation of a landlord's business license must comply with the business license denial, suspension, or revocation procedures set forth in Chapter 5.02.050 OMC. A landlord may appeal the denial, suspension, or revocation of a business license as provided in OMC 5.02.060.

3. Reinstatement of business license. If a landlord's business license is suspended or revoked, or an application for a license is denied, the City may grant the landlord a business license only after:

- a. Any and all deficiencies on which the denial, suspension, or revocation was based have been corrected;
- b. In the event an inspection has been required, an inspection has been completed and the landlord has provided to the City a valid certificate of inspection that meets the requirements of this Chapter;
- c. The landlord pays the registration and license fee as set forth in this Code; and
- d. The landlord reimburses the City in full for any applicable tenant relocation assistance costs under OMC 5.82.090 and RCW 59.18.085 paid by the City on the Landlord's behalf.

F. Penalty for not obtaining license. In addition to the penalties set forth in Chapter 5.02 OMC, a landlord who makes available for rent or rents a rental unit without having a valid and current business license is in violation of this Chapter and is subject to the penalty provision of OMC 5.82.130, below.

Section 51. Amendment of OMC Chapter 5.84. Olympia Municipal Code Chapter 5.84, Utility Services Tax, is hereby amended to read as follows:

Chapter 5.84

UTILITY SERVICES TAX

5.84.000 Chapter Contents

Sections:

- 5.84.001 Administrative provisions.
- 5.84.002 Business and occupations tax applies
- 5.84.010 Definitions.
- 5.84.020 Exercise of power to license for revenue.
- 5.84.030 ~~Occupation~~ License required.
- ~~5.84.040 Term of license.~~
- 5.84.050 Occupations subject to tax – Amount.
- 5.84.060 Interstate, foreign and governmental commerce exempt.
- ~~5.84.070 Annual application for license.~~
- 5.84.070 Allocation of income – Cellular telephone service
- 5.84.080 Tax due quarterly.
- 5.84.090 Effective date of rate change.
- 5.84.110 Tax due upon transfer.
- 5.84.115 Use tax on the privilege of using natural gas or manufactured gas as a consumer.
- ~~5.84.120 Records – Inspection – Information confidential.~~
- ~~5.84.130 Investigation of records – Examination under oath.~~
- ~~5.84.140 Overpayment and underpayment.~~
- ~~5.84.150 Delinquent payments – Collection.~~
- ~~5.84.160 Appeal from tax determination.~~
- 5.84.170 Power to promulgate regulations.
- ~~5.84.180 Failure to apply or pay, evasion, false testimony unlawful.~~
- ~~5.84.190 Underpayment of tax, interest, or penalty – Interest – Limitations.~~
- ~~5.84.195 Overpayment of tax, penalty, or interest – Credit or refund – Interest rate – Statute of limitations.~~
- ~~5.84.200 Late payment – Disregard of written instructions – Evasion – Penalties.~~
- ~~5.84.210 Violations – Misdemeanor – Gross misdemeanor – Civil infraction.~~

5.84.001 Administrative Provisions

The administrative provisions contained in OMC Chapter 5.05 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

5.84.002 Business and Occupations Tax Applies

The provisions contained in OMC Chapter 5.04 shall be fully applicable to businesses regulated under this chapter.

5.84.010 Definitions

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

- A. “Gross income” means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest

therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like), and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses.

A deduction from gross income shall be allowed to cellular telephone service companies who keep their books on an accrual basis for credit losses, including losses to fraud, other than fraud by employees or agents of the telephone service company.

B. "Person" or "persons" means persons of either sex, firms, copartnerships, corporations, and other associations of natural persons, whether acting by themselves or by servants, agents or employees.

C. "Taxpayer" means any person liable to the license fee or tax imposed by this chapter.

D. "Tax year" or "taxable year" means the year commencing January 1st, and ending on the thirty-first day of December of the same year, or in lieu thereof, the taxpayer's fiscal year when permission is obtained from the Director to use the same as the tax period.

E. "Telecommunications service" or "Telephone business" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. It includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. Telecommunication services or telephone business also includes ancillary services that are associated with or incidental to the provision of telecommunication services including, but not limited to, conference bridging, detailed telecommunications billing, directory assistance, vertical service, or voice mail services as defined in RCW 82.04.065.

Telecommunication services or telephone business also includes those activities previously used to define telephone business such as the providing by any person of access to a local telephone network, local telephone network switching service, toll service, cellular or mobile telephone service, coin telephone services, pager service, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes the provision of cooperative or farmer line telephone services or associations operating exchanges. The term also includes the provision of transmission to and from the site of an internet provider via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Telecommunication service or telephone business" does not include the providing of competitive telephone service, data processing, providing of cable television service, or other providing of broadcast services by radio or television stations.
~~means the business of providing access to a local telephone network, local telephone network switching service, toll service, cellular telephone service, coin telephone services, telephonic, video, data or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It further indicates cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service, the providing of cable television service, nor the providing of broadcast services by radio or television stations.~~

F. "Cellular telephone service" is a voice or data telephone/telecommunications system based in whole or substantial part on wireless radio communications, whether or not the communications are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service.~~means~~

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

~~G. — "Network telephone service" means the providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, nor the providing of broadcast services by radio or television stations.~~

HG. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made. Competitive telephone service also includes leasing of telephone street directories. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

H. "Place of primary use" means the residential street address or the primary business street address of the customer and in both cases must be located within the licensed service area of the home service provider.

5.84.020 Exercise of power to license for revenue

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue.

5.84.030 ~~Occupation~~ license required

It is unlawful for any person, firm or corporation to engage in business in the City without first obtaining a license pursuant to the provisions of OMC 5.02. Any additional licensing or permitting requirements of this Chapter 5.84 (Utility Services Tax) shall also apply.

~~A. — After the first day of November, 1935, no person shall engage in or carry on any business, occupation, pursuit or privilege for which a license fee or tax is imposed by this chapter without having first obtained, and being the holder of, a valid and subsisting license to do so to be known as an occupation license; provided, that the city of Olympia is exempt from this license requirement if it engages in any occupation covered by this chapter.~~

~~B. — Any person engaging in, or carrying on, more than one such business, occupation, pursuit or privilege, shall pay the license tax so imposed upon each of the same.~~

~~C. — Any taxpayer who engages in, or carries on, any business subject to tax under this chapter, without having the taxpayer's occupation license to do so, shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on, and any taxpayer who fails or refuses to pay the license fee or tax or any part thereof on or before the due date shall be deemed to be operating without having the taxpayer's license to do so.~~

5.84.040 Term of license

All occupation licenses are for the tax year for which issued and shall expire at the end of such tax year.

~~Such occupation license and the fee or tax therefor hereby imposed shall be for the year commencing January 1st, and ending on the thirty-first day of December of the same year; provided, however, that if the taxpayer in transacting the taxpayer's business keeps the books reflecting the same for a fiscal year not based on the calendar year, the taxpayer may, with the assent of the Director, obtain the taxpayer's license for the period of the taxpayer's current fiscal year which shall be deemed the taxpayer's tax year, and pay the fee or tax computed upon the taxpayer's gross income made during the fiscal year (next preceding the taxpayer's tax year) covering the taxpayer's accounting period as shown by the method of keeping the books of the business.~~

5.84.050 Occupations subject to tax – Amount

From and after the effective date of the ordinance codified in this section, there is levied upon, and shall be collected from, the persons on account of the business activities, license fees in the amounts to be determined by the application of the rates against gross income, as follows:

- A. Upon every person engaged in or carrying on a telecommunications service or telephone business, or a combined telephone and telegraph business, including revenues from intrastate toll, derived from the operation of such business provided to customers within the city, a fee or tax equal to nine (9) percent of the total gross income from such business in the city during the person's tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred dollars (\$100.00) per tax year.
- B. Upon every person engaged in or carrying on a telegraph business, a fee or tax equal to nine (9) percent of the total gross income from such business in the city during the tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred dollars (\$100.00) per tax year.
- C. Upon every person engaged in or carrying on the business of selling or furnishing gas for hire, a fee or tax equal to nine (9) percent of the gross income from such business in the city during the person's tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.
- D. Upon every person engaged in or carrying on the business of selling or furnishing electric light and power, a fee or tax equal to nine (9) percent of the total gross income from such business in the city during the person's tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.
- E. Upon every person engaged in or carrying on the business of selling or furnishing cable television, a fee or tax equal to six (6) percent of the total gross income from such business in the city during the person's tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.
- F. Upon every person conducting or engaged in the business of supplying steam heat or power to the public for hire, a fee or tax equal to one (1) percent of the total gross income from such business in the city during the person's tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.
- G. Upon every person conducting or engaged in the business of transporting passengers for hire on a regular route, a fee or tax equal to one (1) percent of the total gross income from such business in the city during the tax year for which the license is required; provided, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.
- H. Upon every person conducting or engaged in the business of selling or furnishing water, collecting or processing sewage, collecting or disposing of solid waste, handling or disposing of storm water runoff, a fee or tax equal to six (6) percent of the total gross income from such business in the city during the tax year for which the license is required; provided, that the tax on City of Olympia owned utilities

engaged in the business of collecting or processing sewage, collecting or disposing of solid waste, handling or disposing of stormwater runoff, or furnishing water shall be as set forth below, based on the total gross income from such enterprise in the city during the tax year; provided further, however, that the minimum fee or tax shall not be less than one hundred (\$100.00) dollars per tax year.

Enterprise	Rate
1. Sewer	12.5%
2. Solid Waste	12.5%
3. Stormwater	12.5%
4. Water	12.5%

This section shall not apply to:

1. Gross revenue of wholesale utility providers, that is, those which obtain utility services from the city for customers located in the service area of the provider and which own the distribution system and provide maintenance, collection, meter reading, and/or other services associated with the wholesale provision of utility services;
2. Businesses operated primarily for the purpose of recycling of solid waste.

5.84.060 Interstate, foreign and governmental commerce exempt

A. There shall be excepted and deducted from the total gross income upon which a license fee or tax is computed so much thereof as is derived from the transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents, and any amount paid by the taxpayer to the United States, the state, or the city as excise taxes levied or imposed upon the sale or distribution of property or services.

B. Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States, or which would not be consistent with the Constitution or laws of the state.

C. Any person subject to the payment of a license fee or tax under the provisions of any ordinance of the city, other than this, on account of engaging in any activity for which the person is liable to tax under this chapter, or any person required to pay fees, or render services, to the city, by virtue of any ordinance granting a franchise to such person, may deduct the amount of such fee, tax, or the value of such services, from the amount of fee or tax imposed by this chapter on account of such activity, but such person shall nevertheless, in the manner provided for under this chapter, apply for and procure an business occupation license.

5.84.070 ~~Annual application for license~~

A. ~~On or before the first day of November, 1935, and thereafter on or before the first day of each tax year, every taxpayer shall apply to the Director for an occupation license upon blanks or forms of return to be prepared and provided by that taxpayer requesting such information required, and shall sign the same, and by affidavit at the foot thereof shall swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.~~

B. ~~If the applicant is a partnership, the application or return must be made by one of the partners; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager of the corporation, copartnership or individual.~~

5.84.070 Allocation of income – Cellular telephone service

A. In determining the total gross income from telephone business in the City for purposes of subsection 5.84.050.A, there shall be included all gross income from cellular telephone service (including roaming charges incurred by Olympia customers outside this state) provided to customers whose "place of primary use" is in the City, regardless of the location of the facilities used to provide the service. The customer's "place of primary use" is, with respect to each telephone: (a) the customer's address; or (b) the customer's place of residence if the telephone is for personal use, and in both cases must be located within the licensed service area of the home service provider. Roaming charges and cellular telephone charges to customer whose principal service address is outside Olympia will not be taxable even though those mobile services are provided within Olympia.

B. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

C. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross revenues shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

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

5.84.080 Tax due quarterly

A. Tax imposed by this chapter shall be due and payable in quarterly installments, and remittance shall be made on or before the end of the month next succeeding the end of the quarterly period in which the tax accrued. Such quarterly periods are as follows:

1. First quarter – January, February, March;
2. Second quarter – April, May, June;
3. Third quarter – July, August, September;
4. Fourth quarter – October, November, December.

B. On or before the due date, the taxpayer shall file with the Director a written return upon such form and setting forth such information as the Director shall reasonably require to compute the tax, together with the payment of the amount of the tax.

5.84.090 Effective date of rate change

No rate change under this chapter shall take effect before the expiration of sixty days following the enactment of the ordinance establishing the change.

5.84.110 Tax due upon transfer

Upon the sale or transfer during any tax year of a business on account of which a fee or tax is required by this chapter, the purchaser or transferee shall, if the fee or tax has not been paid in full for said year, be responsible for its payment for that portion of the year during which the purchaser or transferee carries on such business.

5.84.115 Use tax on the privilege of using natural gas or manufactured gas as a consumer

A. As authorized by RCW 82.14.230, there is fixed and imposed on every person a use tax for the privilege of using natural gas or manufactured gas in the city as a consumer. The tax shall be in an amount equal to the value of the article used by the taxpayer multiplied by the rate of tax on the business of selling or furnishing gas for domestic, business or industrial consumption set forth in Section 5.84.050(C) of this chapter. The "value of the article used" shall have the meaning set forth in RCW 81.12.010(1), and does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this section if those amounts are subject to tax under Section 5.84.050(C) of this chapter.

B. The tax imposed under this section shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under Section 5.84.050(C) of this chapter with respect to the gas for which exemption is sought under this subsection.

C. There shall be a credit against the tax levied under this section in an amount equal to any tax paid by:

1. The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to Section 5.84.050(C) of this chapter by another state with respect to the gas for which a credit is sought under this subsection; or
2. The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

D. The use tax hereby imposed shall be paid by the consumer. The administration and collection of the tax hereby imposed shall be by the Washington State Department of Revenue pursuant to RCW 82.14.050.

5.84.120 ~~Records—Inspection—Information confidential~~

~~It shall be the duty of each taxpayer taxed upon the taxpayer's gross income to keep and enter in a proper book or set of books or records an amount which shall accurately reflect the amount of the taxpayer's gross income, which account shall always be open to the inspection of the Director, or the Director's duly authorized agent, and from which said officer or the officer's agent may verify the return made by the taxpayer.~~

~~The applications, statements, or returns made to the Director, pursuant to this chapter, shall not be made public, nor shall they be subject to the inspection of any person except the mayor, the city attorney, the Director or the Director's authorized agent, and members of the city council.~~

5.84.130 ~~Investigation of records—Examination under oath~~

~~If any taxpayer fails to apply for license or make return, or if the Director is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, said officer, or the officer's authorized agent, may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting the taxpayer's books or records of account to ascertain the amount of the fee or tax or determine the correctness of such statements, as the case may be, and may examine any person under oath administered by said officer, or the officer's agent, touching the matters inquired into, or said officer or the officer's authorized agent may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify, under oath administered by said officer, or the officer's agent, in regard to the matters inquired into, and may, by subpoena, require that taxpayer, or any person, to bring with that taxpayer such books, records and papers as may be necessary.~~

5.84.140 ~~Overpayment and underpayment~~

~~If the Director, upon investigation or upon checking returns, finds that the fee or tax paid on any of them is more than the amount required of the taxpayer, the Director shall refund the amount overpaid by a~~

warrant upon the general fund. If the Director finds that the fee or tax paid is less than required, the Director shall send a statement to the taxpayer, showing the balance due, who shall within three days pay the amount shown thereon.

5.84.150 — Delinquent payments — Collection

If any taxpayer fails to apply for license, or make the taxpayer's return, or to pay the fee or tax therefor, or any part thereof, within three days after the same has become due, the Director shall ascertain the amount of the fee or tax or installments thereof due, and shall notify such taxpayer thereof, who shall be liable therefor in any suit by the city of the collection thereof. The Director shall also notify the city attorney in writing of the name of such delinquent taxpayer and the amount due from that taxpayer, and said officer shall, with the assistance of the Director, collect the same by any appropriate means or by suit or action in the name of the city.

5.84.160 — Appeal from tax determination

Any taxpayer aggrieved by the amount of the fee or tax by the Director to be required under the provisions of this chapter, may appeal to the city council from such finding, by filing a written notice of appeal with the Director within five days from the time such taxpayer was given notice of such amount. The Director shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall not be more than ten days after the filing of the notice of appeal, and the Director shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing, the taxpayer shall be entitled to be heard and to introduce evidence in the taxpayer's own behalf. The city council shall thereupon ascertain the correct amount of the fee or tax by resolution, and the Director shall immediately notify the appellant thereof, which amount, together with costs of the appeal, if appellant is unsuccessful therein, must be paid within three days after such notice is given.

The chairperson of the city council, or the chairperson of any committee thereof before which the appeal is to be heard, may, by subpoena, require the attendance thereat of any person, and may also require that person to produce any pertinent books and records. Any person served with such subpoena shall appear at the time and place therein stated and produce the books and records, required, if any, and shall testify truthfully, under oath administered by the chairperson in charge of the hearing on appeal, as to any matter required of that person pertinent to the appeal, and it is unlawful for that person to fail or refuse to do so.

5.84.170 Power to promulgate regulations

The Director shall have the power, and it shall be the Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this chapter or with law, for the purpose of carrying out the provisions thereof, and it is unlawful to violate or fail to comply with, any such rule or regulation.

5.84.180 — Failure to apply or pay, evasion, false testimony unlawful

It is unlawful for any person liable to tax under this chapter to fail or refuse to make application or return for a license or to pay the fee or tax or installment thereof when due, or for any person to make any false or fraudulent application or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in any way or attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter.

5.84.190 — Underpayment of tax, interest, or penalty — Interest — Limitations

A. — If, upon examination of any returns, or from other information obtained by the Director, the Director determines that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount 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 in full within thirty (30) days from the date of the notice, or within such time as the Director may provide in writing.

B. — Interest Rate. The Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

C. — 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:

1. — Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;
2. — Against a person that has committed fraud or who misrepresented a material fact; or
3. — Against a person that has executed a written waiver of such limitations.

5.84.195 — 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 (4) 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. — Interest Rate. The Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.

5.84.200 — Late payment — Disregard of written instructions — Evasion — Penalties

A. — If the Director does not receive a return or payment of any tax due on a return to be filed by a taxpayer 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.

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.

C. — If a citation or criminal complaint is issued for the collection of taxes, fees, assessments, interest 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.

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 title and that person has not obtained from the Director a license as required by OMC 5.05.025, 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.

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.

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

G. — The penalties imposed under subsections (A) through (E) above 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.

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.

I. — For the purposes of this section, "return" means any document a person is required by the City of Olympia 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.

J. — If incorporation into the City of Olympia code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

5.84.210 Violations – Misdemeanor — Gross misdemeanor — Civil infraction

A. — Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. — As an additional concurrent penalty, ~~it~~ It shall be a civil infraction for a person, firm, limited liability company or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, limited liability company or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided in OMC Chapter 4.44, Uniform Civil Enforcement. follows:

1. — First offense: Class 3 (\$50), not including statutory assessments.

2. — Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.

3. ~~Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.~~

See also OMC Chapter 4.44, Uniform Code Enforcement.

Section 52. Amendment of OMC Chapter 5.86. Olympia Municipal Code Chapter 5.86, Multi-family Dwelling Tax Exemptions, is hereby amended to read as follows:

Chapter 5.86

MULTI-FAMILY DWELLING TAX EXEMPTIONS

5.86.000 — Chapter Contents

Sections:

- 5.86.010 — Definitions.
- 5.86.020 — Residential target area, hearing on resolution.
- 5.86.030 — Residential target area designation and standards.
- 5.86.040 — Tax exemptions for multi-family housing in residential target areas authorized.
- 5.86.050 — Project eligibility.
- 5.86.060 — Application procedure.
- 5.86.070 — Application review and issuance of conditional certificate.
- 5.86.080 — Extension of conditional certificate.
- 5.86.090 — Application for final certificate.
- 5.86.100 — Issuance of final certificate.
- 5.86.110 — Annual compliance review.
- 5.86.120 — Cancellation of tax exemption.

5.86.010 — Definitions

When used in this chapter, the following terms have the following meanings, unless the context indicates otherwise:

- A. ~~“Multi-family housing” means building(s) having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings to multi-family housing.~~
- B. ~~“Owner” means the property owner of record.~~
- C. ~~“Urban center” means a compact identifiable district where urban residents may obtain a variety of products and services. Neighborhood centers designated in the Olympia Comprehensive Plan are included in this definition of urban center. An urban center must contain:
 - a. ~~Several existing or previous, or both, business establishments, including shops, offices, banks, restaurants, and governmental agencies;~~
 - b. ~~Adequate public facilities, including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and~~
 - c. ~~A mixture of uses and activities, including housing, recreating, and cultural activities in association with either commercial or office, or both, use.~~~~
- D. ~~“Director” means the Director of the City of Olympia Community Planning and Development Department or other city official designated by the City Manager to carry out this chapter.~~

E. —“Permanent residential occupancy” means multi-unit housing that provides either rental or owner-occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis and excludes short-term rentals, as defined in OMC 18.02.180.D.

F. —“Rehabilitation improvements” means modifications to existing structures that are vacant for 12-months or longer, or modification to existing occupied structures, which convert nonresidential space to residential space or increase the number of multi-family housing units (or both).

G. —“Residential target area” means an area within an urban center that has been designated by the City Council as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public.

H. —“Affordable housing” means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household’s monthly income. For the purposes of housing intended for owner occupancy, “affordable housing” means residential housing that is within the means of low or moderate income households.

I. —“Household” means a single person, a family, or unrelated persons living together.

J. —“Low income household” means a single person, a family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for Thurston County, as reported by the United States department of housing and urban development.

K. —“Moderate income household” means a single person, a family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115 percent of the median family income adjusted for family size, for Thurston County, as reported by the United States department of housing and urban development.

5.86.020 — Residential target area, hearing on resolution

A. — For the purpose of designating a residential targeted area or areas, the City Council may adopt a resolution of intention to designate an area described in the resolution. The resolution must state the time and place of a hearing to be held by the City Council to consider the designation of the area and may include such other information pertaining to the designation of the area as the City Council determines to be appropriate to apprise the public of the action intended.

B. — The City Council shall cause notice of a hearing held under this ordinance to be given by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than 30 days before the date of the hearing in a paper having a general circulation in the city. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

5.86.030 — Residential target area designation and standards

A. — Criteria. Following a public hearing, with notice given by resolution pursuant to RCW 84.14.040, the City Council may, in its sole discretion, designate one or more residential target areas. Each designated target area must meet the following criteria, as determined by the City Council:

1. — The target area is located within an urban center;
2. — The target area lacks sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would likely live in the urban center if affordable, desirable, attractive, and livable places were available; and

3. The providing of additional housing opportunity, including affordable housing, in the target area will assist in achieving the following purposes:

- a. Encourage increased residential opportunities within the target area; or
- b. Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and under-utilized buildings for multi-family housing.

In designating a residential target area, the City Council may also consider other factors, including: whether additional housing in the target area will attract and maintain a significant increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions and social liability in the target area; and whether an increased residential population in the target area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The City Council may, by ordinance, amend or rescind the designation of a residential target area at any time pursuant to the same procedure as set forth in this chapter for original designation.

B. Target Area Standards and Guidelines. For each designated residential target area, the City Council shall adopt basic requirements for both new construction and rehabilitation, including the application process and procedures. These requirements may include the following:

- 1. Requirements that address demolition of existing structures and site utilization; and
- 2. Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep permanent residents and that will properly enhance the livability of the residential targeted area in which they are to be located.

C. Designated Residential Target Areas. Seven residential target areas are designated, as further described in this subsection:

Area 1—Downtown Residential Target Area

All of that portion of the City of Olympia, Washington described as beginning at the intersection of the East shoreline of Capitol Lake with the Westerly extension of centerline of 15th Ave extended Westerly; thence Easterly along said centerline and its extension to the centerline of Capitol Way; thence southerly along said centerline to the centerline of 16th Ave.; thence Easterly along said centerline and its extension to the Northwesterly boundary line of Interstate 5; thence Northeasterly along said line to its intersection with the centerline of Eastside St. thence Northerly along said centerline to the centerline of State Ave.; thence Westerly along said centerline to the centerline of East Bay Dr.; thence Northerly along said centerline of East Bay Dr. to Olympia Ave; thence Westerly along said centerline to the centerline of Indian/Moxlie Creek Culvert; thence Northerly along said creek centerline to the shoreline of Budd Inlet; thence along said shoreline and the shoreline of Capitol Lake to the point of beginning; EXCEPTING THEREFROM that area lying Westerly of Water Street and Northerly of 5th Ave and Southerly of Budd Inlet.

Area 2—Eastside Residential Target Area

All properties located along State Ave. and 4th Ave. which are bounded by Eastside St. on the West and Sawyer St. on the East; said area limited to a half block North of State Ave. west of Wilson St. and to south of State Ave. between Wilson and Sawyer Streets; and limited to a half block south of 4th Ave. west of Frederick St. and to north of 4th Ave. between Frederick St. and Sawyer St.; ALSO all properties located North of State Ave between East Bay drive and Eastside St. and South of Olympia Ave.; EXCEPTING THEREFROM the North half of the block which lies between Pear Street and Quince St., and Olympia Ave. and State St.; ALSO EXCEPTING THEREFROM the three lots located at the Southwest

corner of Eastside St. and Olympia Ave.; ALSO all properties east of Sawyer St. and west of Chambers St. between Pacific and State Avenues, and all properties within the HDC-4, GC, and MHP zoning districts east of Chambers St., north of Pacific Ave, and west of Lilly Road; ALSO all properties east of Boulevard Rd., south of Pacific Ave. and north of Interstate 5 that are within the HDC-3, HDC-4, GC and RM-18 zoning districts.

Area 3—Westside Residential Target Area

All properties located along Harrison Avenue which are currently bounded by: Cushing Street on the west; Foote Street on the east; extending only two lots deep both north and south of Harrison Avenue. Also included is the third lot north, located at the northeast corner of Harrison Avenue and Milroy Street; the third and fourth lot north, located at the northeast corner of Harrison Avenue and Decatur Street; the third and fourth lots south, located at the southwest corner of Harrison Avenue and Decatur Street; and the block bounded by Perry Street on the west, Garfield Street on the north, Plymouth Street on the east and Harrison Avenue on the south; EXCEPT any portion lying within Woodruff Park. ALSO, all properties within the HDC-3 zoning district west of Cushing St. and east of Division St.; ALSO, all properties within the HDC-3 and HDC-4 zoning districts north of Harrison Avenue, west of Division St. and east of Yauger Way; ALSO, all properties in the area bounded by Harrison Avenue, Black Lake Blvd, and Cooper Point Rd.; ALSO, all properties west of Cooper Point Rd., south of Harrison Avenue, and north and east of Yauger Park; ALSO, all properties with frontage on the west side of Cooper Point Rd. south of Capital Mall Drive and north of 12th Avenue, and the property west of Cooper Point Rd. and south of 12th Avenue with frontage on both of those streets; ALSO, all properties within the HDC-4 zoning district east of Black Lake Blvd., north of Cooper Point Rd. and south of 9th Avenue with frontage on Black Lake Blvd., 12th Ct., Parkmont Lane, or 9th Avenue. EXEMPTING THEREFROM the property with frontage on both Black Lake Blvd. and Cooper Point Rd.

Area 4—Boulevard Road Neighborhood Center Target Area

Lot 3 of Log Cabin Large Lot Subdivision No. LLS 17-4390-OL as recorded February 2, 2018, under Auditor's File No. 4609770, records of Thurston County, Washington.

Area 5—San Francisco Street Neighborhood Center Target Area

The area south of Pioneer Avenue, west of Garrison Street, north of San Francisco Street, and east of Bethel Street; ALSO, the properties with frontage on Bethel Street that are south of Pioneer Avenue and north of San Francisco Street.

Area 6—Division Street Neighborhood Center Target Area

The area south of Burbank Avenue, west of Division Street, north of 20th Avenue, and east of East End Street; ALSO, the property with frontage on both the east side of Division Street and the north side of 20th Avenue; ALSO, the properties fronting the north side of 20th Avenue that are within 250 feet west of East End Street, and the properties fronting on East End Street that are within 650 feet north of 20th Avenue.

Area 7—18th Avenue Neighborhood Center Target Area

The area west of Fones Road, north of 18th Avenue, and east of Ontario Street that is within 300 feet north of 18th Avenue; ALSO, the area east of Fones Road, north of 18th Avenue, and west of Elizabeth Street that is within 375 feet north of 18th Avenue.

5.86.040—Tax exemptions for multi-family housing in residential target areas authorized

A.—Duration of Exemption. For any property for which an application for a certificate of tax exemption eligibility is submitted under Chapter 84.14 RCW, the value of improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

1. For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate;

a. For a property in Area 1 Downtown Residential Target Area and Area 2 Eastside Residential Target Area, the owner shall pay five percent of the full ad valorem tax exemption to the City to serve as a fee in lieu of affordable housing units. The City shall allocate all funds paid under this sub-subsection to future affordable housing projects as determined by the City. Funds must serve low income households. The owner shall pay such fee to the City in two installments, as follows: Prior to execution of the contract with the City required by OMC 5.86.070 B, the owner shall pay 50 percent of the estimated fee, determined based on estimated value of tax exemption; prior to issuance of the certificate of occupancy, the owner shall pay 100 percent of the actual fee, determined based on the actual value of the tax exemption, less the amount paid as the first installment.

b. For a property in Area 3 Westside Residential Target Area, the owner shall pay 25 percent of the estimated full ad valorem tax exemption to the City to serve as a fee in lieu of affordable housing units. The City shall allocate all funds paid under this sub-subsection to future affordable housing projects as determined by the City. Funds must serve low income households. The owner shall pay such fee to the City in two installments, as follows: Prior to execution of the contract with the City required by OMC 5.86.070 B, the owner shall pay 50 percent of the estimated fee, determined based on estimated value of tax exemption; prior to issuance of the certificate of occupancy, the owner shall pay 100 percent of the actual fee, determined based on the actual value of the tax exemption, less the amount paid as the first installment.

2. For 12 successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under chapter 84.14 RCW and meets the conditions in this subsection. For the property to qualify for the 12 year exemption under this subsection, the applicant must: commit and agree to rent 100 percent of the multi-family housing units as affordable housing units to low income households; commit and agree to continue to address the displacement of low income residents by increasing rent no more than seven percent per year for a period of five years following expiration of the 12 year exemption period; and satisfy any additional affordability and income eligibility conditions adopted by the City. In the case of projects intended exclusively for owner occupancy, units must also be sold to low income households.

3. For 20 successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under chapter 84.14 RCW and meets the conditions in this subsection. For the property to qualify for the 20 year exemption under this subsection, the applicant must commit to selling 100 percent of the units as affordable housing to low income households and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the City. The project must provide 25 dwelling units or more per gross acre. Units must be built by or sold to a qualified nonprofit or local government that will assure permanently affordable homeownership to low income households.

For purposes of this subsection, "permanently affordable homeownership" means homeownership that, in addition to meeting the definition of "affordable housing" OMC 5.86.010, is:

a. Subject to a ground lease or deed restriction that includes:

i. A resale restriction designed to provide affordability for future low and moderate income homebuyers;

ii. A right of first refusal for the sponsor organization to purchase the home at resale; and

- iii. ~~— A requirement that the sponsor must approve any refinancing, including home equity lines of credit; and~~
- b. ~~— Sponsored by a nonprofit organization or governmental entity and the sponsor organization:~~
 - i. ~~— Executes a new ground lease or deed restriction with a duration of at least 99 years at the initial sale and with each successive sale; and~~
 - ii. ~~— Supports homeowners and enforces the ground lease or deed restriction.~~
- B. ~~— Extension of Exemption. Any project receiving an eight or 12 year extension may apply for a subsequent 12 year extension in exchange for continued or increased income restrictions on affordable units; provided that it meets the following criteria:~~
 - a. ~~— The property owner shall submit an application to the City no earlier than 18 months nor later than six months of expiration of current exemption.~~
 - b. ~~— All of the housing units must be occupied by low income households.~~
 - c. ~~— Conversion from market rate to affordable units must comply with the procedures outlined in the City's policies and procedures.~~
 - d. ~~— The property owner must provide notice to each tenant in a rent restricted unit at the end of the tenth and eleventh years of the continued 12 year exemption that the exemption will expire and the landlord will provide relocation assistance.~~
 - e. ~~— Landlords must provide one month's rent as relocation assistance to a qualified tenant in their final month when affordability requirements no longer apply, even when the affordable rent period extends beyond the expiration of the tax exemption.~~
- C. ~~— Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this ordinance, nor does the exemption apply to increases in assessed valuation of land and nonqualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this ordinance. This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.~~

5.86.050—Project eligibility

A proposed project must meet the following requirements for consideration for a property tax exemption:

- A. ~~— Location. The project must be located within a residential target area as designated in OMC 5.86.030.~~
- B. ~~— Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a minimum of 12 months prior to submission of an application and must have one or more violations of the City's minimum housing code. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.~~
- C. ~~— Size. The project must include at least four units of multi-family housing within a residential structure or as part of an urban development. A minimum of four new units must be constructed or at~~

~~least four additional multi-family units must be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multi-family housing.~~

~~D.—Proposed Completion Date. New construction multi-family housing and rehabilitation improvements must be completed within three years from the date of approval of the application.~~

~~E.—Compliance with Guidelines and Standards. The project must be designed to comply with the City's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. The project must also comply with any other standards and guidelines adopted by the City Council for the residential target area in which the project will be developed.~~

~~F.—At least 50 percent of the space in a new, converted, or rehabilitated multiple unit must be for permanent residential housing. In the case of existing occupied multi-family development, the multi-family housing must also provide for a minimum of four additional multi-family units. Existing multi-family vacant housing that has been vacant for 12 months or more does not have to provide additional units;~~

~~G.—The applicant must enter into a contract with City approved by City Council under which the applicant agrees to the implementation of the development on terms and conditions satisfactory to the City Council.~~

5.86.060—Application procedure

~~A property owner who proposes a project for a tax exemption shall complete the following procedures:~~

~~A.—Submit the required application to the Director along with the required fees shown in OMC chapter 4.40. A complete application must be submitted, and all required application fees paid, sufficiently in advance of the anticipated date of project completion so that the application can be reviewed and approved, and the contract with the City executed, prior to issuance of the certificate of occupancy. If a property owner receives a certificate of occupancy prior to the Director's approval of an application, or execution of the contract, the property owner is ineligible for the tax exemption.~~

~~B.—A complete application must include:~~

- ~~1.—A completed City of Olympia application form setting forth the grounds for the exemption;~~
- ~~2.—Preliminary floor and site plans of the proposed project;~~
- ~~3.—A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and~~
- ~~4.—Verification by oath or affirmation of the information submitted.~~

~~For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the City verification of property noncompliance with the City's applicable building or housing codes.~~

5.86.070—Application review and issuance of conditional certificate

~~The Director may certify as eligible an application which is determined to comply with the requirements of this chapter. The Director shall make a decision to approve or deny an application within 90 calendar days of receipt of a complete application.~~

~~A.—Approval. The Director may approve the application if the Director finds that:~~

1. ~~A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;~~
2. ~~If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;~~
3. ~~The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;~~
4. ~~The owner has complied with all standards and guidelines adopted by the city under this ordinance; and~~
5. ~~The site is located in a residential targeted area of an urban center that has been designated by the City Council in accordance with procedures and guidelines of this ordinance.~~

B. ~~If an application is approved, the applicant shall enter into a contract with the City, approved by the City Council, regarding the terms and conditions of the project. Upon City Council approval of the contract, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.~~

C. ~~Denial. The Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within 10 calendar days of the denial. An applicant may appeal a denial to the City Council within 30 calendar days of receipt of notice by filing an appeal with the Director with the fee as shown in OMC 4.40. The appeal is based on the record made by the Director. The Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The City Council's decision on appeal is final.~~

5.86.080—Extension of conditional certificate

The Conditional Certificate and time for completion of the project may be extended by the Director for a period not to exceed a total of 24 consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a processing fee as shown in OMC 4.40. An extension may be granted if the Director determines that:

- A. ~~The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the applicant;~~
- B. ~~The applicant has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and~~
- C. ~~All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.~~

5.86.090—Application for final certificate

After completion of the improvements agreed upon in the contract between the applicant and the City and after issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the Director the following:

- A. ~~A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;~~
- B. ~~A description of the completed work and a statement of qualification for the exemption; and~~
- C. ~~If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and~~

~~D. — A statement that the work was completed within the required three-year period or any authorized extension.~~

~~Within 30 calendar days of receipt of all materials required for a Final Certificate, the Director shall determine whether the specific improvements, and the affordability of the units, satisfy the requirements of the contract, application, and this ordinance.~~

5.86.100 — Issuance of final certificate

~~If the Director determines that the project has been completed in accordance with this ordinance and the contract between the applicant and the City has been completed within the authorized time period, the City shall, within 10 calendar days of the expiration of the 30-day review period above, file a Final Certificate of Tax Exemption with the Thurston County Assessor.~~

~~A. — Denial and Appeal. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:~~

- ~~1. — The improvements were not completed within the authorized time period;~~
- ~~2. — The improvements were not completed in accordance with the contract between the applicant and the City; or~~
- ~~3. — The applicant's property is otherwise not qualified under this chapter.~~

~~Within 14 calendar days of receipt of the Director's denial of a Final Certificate, the applicant may file an appeal with the City's Hearing Examiner, as provided in Chapter 18.82 of the Olympia Municipal Code upon payment of the required fee. No appeal is provided from the Hearing Examiner to the City Council. The applicant may appeal the Hearing Examiner's decision to the Thurston County Superior Court if the appeal is filed within 30 calendar days of the applicant's receiving notice of that decision.~~

5.86.110 — Annual compliance review

~~Within 30 calendar days after the first anniversary of the date of filing the Final Certificate of Tax Exemption and each year thereafter for the tax exemption period, the property owner shall file a notarized declaration with the Director indicating the following:~~

- ~~A. — A statement of occupancy and vacancy of the multi-family units during the previous year;~~
- ~~B. — A certification that the property continues to be in compliance with the contract with the City and this ordinance and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the approved certificate; and~~
- ~~C. — A description of any subsequent improvements or changes to the property; and~~
- ~~D. — Any additional information requested by the City in regards to the units receiving a tax exemption.~~

~~City staff may also conduct on-site verification of the declaration. Failure to submit the annual declaration results in a review of the exemption per RCW 84.14.110.~~

5.86.120 — Cancellation of tax exemption

~~If the Director determines the owner is not complying with the terms of the contract or this ordinance, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multi-family housing to another use, the owner must notify the Director and the Thurston County Assessor within 60 calendar days of the change in use.~~

~~A. — Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the provisions of RCW 84.14.110(1) apply.~~

~~B.— Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the Director within 30 calendar days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearing Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the Hearing Examiner's decision to the Thurston County Superior Court.~~

Section 53. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.


Section 54. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 55. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.


Section 56. Effective Date. This Ordinance shall take effect after passage and publication, as provided by law, on February 14, 2025.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

PASSED: January 7th, 2025

APPROVED: January 7th, 2025

PUBLISHED January 13th, 2025