



City of Tukwila
**Finance and Governance
 Committee**

- ◆ **Kate Kruller, Chair**
- ◆ **Kathy Hougardy**
- ◆ **De'Sean Quinn**

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|------------------------|---------------|
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| M. Abdi | |
| T. Sharp | |

AGENDA

MONDAY, NOVEMBER 13, 2023 – 5:30 PM

THIS MEETING WILL BE CONDUCTED BOTH ON-SITE AT TUKWILA CITY HALL AND ALSO VIRTUALLY.

**ON-SITE PRESENCE WILL BE IN THE DUWAMISH CONFERENCE ROOM
 (2ND FLOOR, 6300 SOUTHCENTER BOULEVARD)**

**THE PHONE NUMBER FOR THE PUBLIC TO LISTEN TO THIS
 MEETING IS:**

1-253-292-9750, Access Code 965223169#

Click here to: [Join Microsoft Teams Meeting](#)

For Technical Support during the meeting call: 1-206-433-7155.

| Item | Recommended Action | |
|--|--|--------------|
| 1. BUSINESS AGENDA | | |
| a. An ordinance amending the Business & Occupation Tax. <i>Adam Schierenbeck, Senior Fiscal Coordinator – B&O Tax</i> | a. Forward to 11/27 C.O.W. and 12/4 Regular Meeting. | Pg.1 |
| b. Approval of 1.25 Full Time Employee (FTE) for the Tukwila Municipal Court for supporting the Automated Traffic Safety Camera Program. <i>Trish Kinlow, Judicial Branch Administrator</i> | b. Forward to 11/20 Regular Meeting. | Pg.29 |
| c. September General Fund Expenditure Update. <i>Tony Cullerton, Deputy Finance Director</i> | c. Discussion only. | Pg.31 |
| 2. MISCELLANEOUS | | |

Next Scheduled Meeting: *November 27, 2023*



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INFORMATIONAL MEMORANDUM

TO: Finance and Governance Committee

FROM: Vicky Carlsen, Finance Director

BY: Adam Schierenbeck, Senior Fiscal Coordinator

CC: Mayor Ekberg

DATE: October 24, 2023

SUBJECT: B&O Tax TMC Changes

ISSUE

Staff are proposing code changes to administer the business and occupation (B&O) tax more effectively, and to add exemptions and deductions based on local goals and policies.

BACKGROUND

In 2022, the City Council passed Ordinance 2689 establishing a B&O tax on business activities within the City. RCW 35.102.040 requires the City to use the mandatory provisions of the model ordinances developed by Washington cities when imposing a B&O tax, including adopting administrative provisions related to the imposition and collection of the tax, but it also allows for flexibility to customize the B&O tax provisions based on local goals and policies. At the time of adopting the tax, while the mandatory provisions of the model ordinance were adopted, the optional administrative provisions in the model ordinance were not. Additionally, the City did not adopt additional exemptions, deductions, and appeal provisions that are common to neighboring cities and to the State of Washington. And while the City adopted a minimum annual gross receipts threshold of \$750,000, the ordinance nonetheless requires every person engaging in business in the City to file a return, creating a large workload for zero tax filings.

Finally, at the time of passing Ordinance 2689, it was communicated to City Council that the B&O tax applies only to businesses with a physical location in the City. However, the model ordinance requires that tax be asserted on any business with a physical presence in the City, which is not limited to only having a physical address.

DISCUSSION

Staff are proposing the following code changes to administer the B&O tax more effectively and to align the City's deductions and exemptions with other Washington cities. In addition, a change in state law in 2023 has resulted in a mandatory change to the model ordinance.

Definition Change – Printing and Publishing Newspapers

In 2023, the State of Washington adopted additional definitions that apply to Washington cities' allocation and apportionment of income for newspaper printers or publishers. This change expands the definition to include publishers of digital newspaper content. This has resulted in a mandatory change to the model ordinance, and thereby an amendment to TMC 3.26.078.

Additional Exemptions

The following additional exemptions are recommended, as they are common to neighboring cities that impose a local B&O tax and are exempt from the State of Washington's B&O tax:

- Adult family homes.

- Health maintenance organization, health care service contractor, certified health plan.
- International banking facilities.
- Real estate brokers and associated brokers, agents, or salesmen.
 - This exemption applies only if the brokerage office has paid B&O tax on the gross commissions earned by that office, in which case associated brokers in the same office do not need to also pay B&O tax on their individual commissions.
- Ride sharing.
- Credit unions.
- Sales of agricultural products by farmers.
- Certain corporations furnishing aid and relief to mitigate or prevent national calamities.
- Certain fraternal and beneficiary organizations.
- Operation of sheltered workshops.
- Credit and debt services provided by nonprofit organizations.
- Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans.

Additional Deductions

The following additional deductions are recommended, as they are common to neighboring cities that impose a local B&O tax and are deductible from the State of Washington's B&O tax:

- Compensation from public entities for health or social welfare services.
- Membership fees and certain services by nonprofit youth organization.
- Initiation fees, dues, and certain charges received by nonprofit organizations.
- Artistic and cultural organizations.
- Interest on obligations of the state, political subdivisions, and municipal corporations.
- Interest on loans to farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives.
- Repair, maintenance, or replacement of residential structures and commonly held property by eligible organizations.
- Certain advertising revenue by radio and television broadcasters.

Nonreporting Status

While the TMC requires every person to file a return and report their gross income and deductions, payment of the B&O tax is not due unless the taxable amount in the City exceeds \$750,000 per calendar year. Thus, most businesses responsible for filing returns will not owe tax, but City staff will need to assist these businesses by providing tax reporting instructions,

[https://tukwilawa.sharepoint.com/sites/mayorsoffice/cc/Council Agenda Items/Finance/B&O Tax Memorandum 10-24-23.docx](https://tukwilawa.sharepoint.com/sites/mayorsoffice/cc/Council%20Agenda%20Items/Finance/B&O%20Tax%20Memorandum%2010-24-23.docx)

sending delinquent notices if a return is not filed, and processing returns received. Furthermore, if there is no tax due then penalties and interest do not apply, irrespective of whether a return is filed timely, and therefore obtaining voluntary compliance can be administratively burdensome while yielding no economic benefit to the City.

A nonreporting option is recommended, which means the business is approved to conduct business in the City without needing to file B&O tax returns, at the City's discretion. The business may, however, be asked to certify their eligibility for nonreporting status. A business assigned to nonreporting may still be audited, and back taxes and penalties may be imposed if it is found that a prior tax liability was not paid.

Administrative Appeal Procedure

Within the model B&O tax ordinance, cities have flexibility to adopt their own appeal procedure. The City adopted a similar procedure to that already in place for its other city-imposed taxes, such as utility tax. However, some key elements of the appeal provision are not in alignment with other cities. Specifically, taxpayers are typically granted 30 days to file an appeal or a request for correction, and they are generally given a timeline by which they can expect a determination after their conference with the Finance Director (i.e. 60 days).

Furthermore, cities' appeal provisions typically specify that an appeal cannot be filed by a taxpayer that has failed or refused to provide records or information requested by the City. And penalties and interest typically continue to accrue during an appeal proceeding or request for correction, except to the extent it is later determined that a tax assessment was too high. This prevents the appeal process from being used to merely extend the assessment due date.

The recommended changes bring the City's appeal process closer in alignment with other cities and more clearly explain the process and requirements for taxpayers.

Additional Administrative Provisions

The Washington model ordinance provides several optional administrative provisions that are recommended to administer the B&O tax more effectively. These administrative provisions have been adopted by all neighboring cities that impose a B&O tax and include:

- Grant taxpayers the right of judicial review if they disagree with the appeal decision of the hearing examiner. The City also is granted the same right of judicial review.
- Grant the Finance Director the authority to adopt, publish, and enforce tax rules and regulations, which helps to ensure transparency and reduce tax reporting errors.
- Grant the Finance Director the authority to enter into agreements with other Washington cities that impose a B&O tax. This helps to ensure that taxpayers are not taxed twice on the same amount in multiple cities and allows for joint audits to ensure that tax is being applied consistently between cities.
- Require tax notices to be sent by ordinary mail using the address provided by the business on its business license. This provision specifies that failure of the taxpayer to receive a notice does not relieve the taxpayer of any amounts due to the City.
- Specify that the B&O tax is in addition to other city-imposed taxes and license fees.
- Maintain confidentiality of tax information. This ensures that tax information, such as tax returns, correspondence, and records obtained in an audit is not subject to public disclosure.

The City is still permitted to share basic information, such as a business' name, address, and open/closed status, and to publish statistics.

- Specify that it is unlawful to fail to comply with the requirements of TMC Chapters 3.26 and 3.27, and a violation constitutes a gross misdemeanor. This provision is intended to prevent tax evasion, misrepresentation, and continuing to operate with a revoked business license.
- Specify that the Director has authority to revoke a business license for failure to comply with TMC Chapters 3.26 and 3.27, according to the suspension and revocation procedures set forth in TMC 5.04.110 and 5.04.112.
- Grant the Finance Director authority to enter into a closing agreement with a taxpayer, to avoid litigation in cases in which the outcome is largely uncertain.
- Grant the Finance Director authority to charge off uncollectible amounts due.

Activities that create nexus for B&O tax

Council was previously informed that the tax applies only to businesses with a physical location in the City. However, out-of-city businesses may also be liable for the tax. While a business must have established a physical presence to be subject to tax, that is not limited to having an address in the city. It also includes activities such as having sales reps in the city, performing construction, delivering goods in company-owned vehicles, etc. It is the same criteria by which a city business license is required.

This is a mandatory provision of the model ordinance and was enacted at the time of passing Ordinance 2689. Thus, it is not related to the attached code changes. This issue is noted here to inform City Council and clarify which businesses may be liable for B&O tax.

FINANCIAL IMPACT

Establishing additional deductions and exemptions will result in a loss in revenue compared to previous estimates, though the financial impact cannot be determined as the City does not have the necessary financial information from businesses to calculate such an amount. Conversely, application of the tax to businesses located outside of the City will result in an increase in revenue compared to earlier estimates, though this amount also cannot be reliably determined due to the very limited information available to the City.

Apart from adding deductions and exemptions, the remaining code changes will not have a financial impact.

RECOMMENDATION

Review and respond to the proposed redlined code changes. The Council is being asked to consider this item at the November 27, 2023 Committee of the Whole meeting and adopt the ordinance at the subsequent December 4, 2023 Regular Meeting.

ATTACHMENTS

- A. Draft Ordinance
- B. Attachment to Draft Ordinance

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON; AMENDING ORDINANCE NO. 2689 §11, §12, §13, §22, AND §33, AS CODIFIED IN TMC CHAPTERS 3.26 AND 3.27; TO ADOPT ADDITIONAL BUSINESS AND OCCUPATION TAX DEDUCTIONS AND EXEMPTIONS; TO ESTABLISH ADDITIONAL ADMINISTRATIVE PROVISIONS; AND TO AMEND ADMINISTRATIVE PROVISIONS RELATED TO TAX FILING REQUIREMENTS AND APPEALS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on November 28, 2022, the City Council adopted Ordinance No. 2689 establishing a business and occupation tax on business activities within the City; and

WHEREAS, RCW 35.102.040 requires the City to adopt the mandatory provisions of the model ordinance developed by Washington cities when imposing a business and occupation tax, including administrative provisions related to the imposition and collection of such a tax, but also allows for flexibility in certain areas to customize the ordinance based on local goals and policies; and

WHEREAS, the model ordinance provides mandatory and standard deductions and exemptions for potential inclusion but also gives the City the ability to create certain deductions and exemptions from business and occupation tax to meet the City's own objectives, set economic policy, and to maintain local control; and

WHEREAS, the model ordinance allows flexibility to determine filing frequencies and customize appeal procedures, allowing the City to reduce the administrative burden on businesses beneath the minimum threshold and clarify the appeal process; and

WHEREAS, the model ordinance provides additional optional administrative provisions that aid the City in equitably administering and enforcing the tax;

WHEREAS, at the time of the adoption of Ordinance No. 2689, the City did not adopt the optional administrative provisions or additional exemptions and deductions; and

WHEREAS, in 2023, the State has adopted additional definitions for newspaper printing and publishing, resulting in a mandatory change to the model ordinance; and

WHEREAS, the City now desires to amend the business and occupation tax in alignment with the model ordinance and State law, having judged that the regulations contained herein best suit the needs of the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. TMC Section 3.26.078 Amended. Ordinance No. 2689 §11, as codified at Tukwila Municipal Code (TMC) Section 3.26.078, is hereby amended to read as follows:

3.26.078 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. Until January 1, 2034, these activities include those for which the exemption in RCW 82.04.759 applies.

Section 2. TMC Section 3.26.090 Amended. Ordinance No. 2689 §12, as codified at TMC Section 3.26.090, is hereby amended to read as follows:

3.26.090 Exemptions

A. ~~Public utilities~~ Gross receipts taxed under other Tukwila Municipal Code sections. 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 TMC Chapter 3.50 (Utility Tax) or TMC Chapter 3.08 (Gambling Activities Tax).

B. **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.

C. **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.

D. 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 hereafter amended.

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

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

F. 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.

G. 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.

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

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

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

K. 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.

L. **Nonprofit organizations.** This chapter shall not apply to entities that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, except retail sales.

M. **Businesses operating as a public card room.** This chapter shall not apply to entities operating "public card rooms," as defined in WAC 230-15-001.

N. **Amateur/Professional/Semi-professional sports teams.** This chapter shall not apply to amateur, professional or semi-professional sports teams or clubs operating in the City primarily engaged in participating in live sporting events, such as baseball, basketball, football, hockey, soccer, and jai alai games, before a paying audience. These teams or clubs may or may not operate their own arena, stadium, or other facility for presenting these events.

O. **Adult family homes.** This chapter shall not apply to adult family homes which are licensed as such under chapter 70.128 RCW, or which are specifically exempt from licensing under the rules of the Washington State Department of Social and Health Services.

P. **Health maintenance organization, health care service contractor, certified health plan.** This chapter shall 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. This exemption is limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW and health maintenance organizations under chapter 48.46 RCW and does not apply to health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

Q. **International banking facilities.** This chapter shall not apply to the gross receipts of an international banking facility. As used in this section, an "international banking facility" means:

1. 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 in this state, and which is incorporated and doing business under the laws of the United States or of this state; or

2. A United States branch or agency of a foreign bank; or

3. An Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631; or

4. 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 12 CFR 204.8(a)(2) and international banking facility extensions of credit as defined in 12 CFR 204.8(a)(3).

R. **Real estate brokers and associated brokers, agents, or salesmen.** This chapter shall not apply to that portion of a real estate commission assigned to another brokerage office pursuant to the division of revenue between the originating brokerage office and a cooperating brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its respective revenue share of the transaction. Furthermore, where a brokerage office has paid the business and occupation tax imposed under this chapter on the gross commission earned by that brokerage office, associate brokers, salesmen, or agents within the same office shall not be required to pay the tax upon their share of the commission from the same transaction.

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

T. The City of Tukwila is exempt from the tax levied by this chapter.

U. **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.

V. **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. "Agricultural product" does not include cannabis or cannabis products as defined in RCW 69.50.101.

W. **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 the 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 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.

X. **Certain fraternal and beneficiary organizations.** This chapter shall not apply to fraternal benefit societies or fraternal 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. 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.

Y. **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 nonprofit group training homes as defined by chapter 71A.22 RCW or to the business activities of nonprofit organizations from the operation of sheltered workshops. For the purposes of this section, "the operation of sheltered workshops" means performance of business activities of any kind on or off the premises of such nonprofit organizations which are performed for the primary purpose of:

1. providing gainful employment or rehabilitation services to persons with disabilities as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or

2. providing evaluation and work adjustment services for persons with disabilities.

Z. **Nonprofit organizations – Credit and debt services.** This chapter shall not apply to nonprofit organizations in respect to amounts derived from provision of the following services:

1. Presenting individual and community credit education programs including credit and debt counseling;

2. Obtaining creditor cooperation allowing a debtor to repay debt in an orderly manner;

3. Establishing and administering negotiated repayment programs for debtors;
or

4. Providing advice or assistance to a debtor with regard to subsection (Z)(1), (Z)(2), or (Z)(3) of this section.

AA. **Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans.** This chapter shall not apply to gross income received by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code, as hereafter amended, that (1) are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans; or (2) provide guarantees for student loans made through programs other than the federal guaranteed student loan program.

Section 3. TMC Section 3.26.100 Amended. Ordinance No. 2689 §13, as codified at TMC Section 3.26.100, is hereby amended to read as follows:

3.26.100 Deductions

In computing the ~~license fee or~~business and occupation tax imposed under this chapter, there may be deducted from the measure of tax the following items:

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

B. 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.

C. 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.

D. 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.

E. Receipts from the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington. Effective January 1, 2024, 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.

F. 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.

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

I. Membership fees and certain service fees by nonprofit youth organization. In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by a nonprofit 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.

For purposes of this subsection (I), "nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030.

J. Initiation fees, dues, and certain charges received by nonprofit organization. In computing tax, a nonprofit organization may deduct from the measure of tax amounts derived from bona fide:

1. Initiation fees;

2. Dues;

3. Contributions;

4. Donations;

5. Tuition fees;

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

7. Charges made for operation of nonprofit kindergartens; and

8. Endowment funds.

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

K. Artistic and cultural organizations. 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.

L. 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.

M. 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.

N. 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;

b. An “association of apartment owners” 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 who 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 country 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;

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.

O. 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 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 represents 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.

Section 4. TMC Section 3.27.040 Amended. Ordinance No. 2689 §22, as codified at TMC Section 3.27.040, is hereby amended to read as follows:

3.27.040 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 chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Effective January 1, 2024, tax payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (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 complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.

D. [Minimum threshold and nonreporting status.](#)

[1.](#) For purposes of the tax imposed by TMC Chapter 3.26, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than \$750,000 in the current calendar year, 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.

[2.](#) [Notwithstanding subsection \(D\)\(1\) of this section, the Director may assign a nonreporting status and relieve any person of the requirement to file returns if the person's value of products, gross proceeds of sales, or gross income of the business subject to tax after allowable deductions does not exceed \\$750,000 per calendar year.](#)

E. A taxpayer that 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.

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 5. TMC Section 3.27.140 Amended. Ordinance No. 2689 §33, as codified at TMC Section 3.27.140, is hereby amended to read as follows:

3.27.140 Administrative Appeal

~~A. Any person aggrieved by the calculation of the tax determined to be due to the City pursuant to this chapter may appeal to the Finance Director or his/her designee from such determination by filing a written notice of appeal with the City Clerk within 20 calendar days from the date on which such person was given notice of the tax. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the amount of the tax was incorrect. The Finance Director or designee shall review the basis for the appeal and may request clarification from the appellant. After the review is complete, the Finance Director or designee shall issue an administrative decision that may sustain or modify the amount of tax owed. Notice of the administrative decision shall~~

~~be sent to the appellant by certified mail within 10 days of issuance.~~ Correction of tax. Any person, except one who has failed to comply with TMC Section 3.27.060, aggrieved by the amount of the tax, penalty, or interest assessed by the Director pursuant to this chapter, or by the denial of a refund by the Director, may request a correction and conference for review of the assessment or denial of a refund. Such request must be made within 30 calendar days from the date on which such person was issued notice of the assessment or refund denial, or within the period covered by an extension of the due date granted by the Director. The request for correction must state the grounds for the request, including a detailed explanation of why the amount of the tax determined to be due by the Director was incorrect. Interest and penalties shall continue to accrue during the Director's review of a request for a correction, except to the extent that the Director later determines that a tax assessment was too high or the delay in issuing a determination is due to unreasonable delays caused by the Director. The Director shall make a final determination regarding the assessment or refund denial and shall notify the taxpayer of the Director's determination within 60 days after the conference, unless otherwise notified in writing by the Director. Such determination shall be subject to appeal pursuant to subsection (B) of this section. If no request for correction is filed within the time period provided herein, the assessment covered by such notice shall become final and immediately due and payable, and no appeal to the hearing examiner shall be allowed.

B. Appeal. The appellant, if aggrieved by the decision of the ~~Finance Director or designee~~ Director issued under subsection A of this section, may then appeal to the City Hearing Examiner within ~~20~~ 30 calendar days of the date the administrative decision is mailed to the appellant. ~~The notice of appeal must state the grounds for appeal, including a detailed explanation of why the administrative decision is incorrect.~~ If no appeal is filed within the time period provided herein, the assessment covered by such notice shall become final and immediately due and payable. No refund request may be made for the audit period covered in that assessment. Failure to follow the appeal procedures in this section shall preclude the taxpayer's right to appeal.

The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council in the amount of \$300 and must contain the following information in writing:-

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

C. Upon timely filing of a notice of appeal, the ~~Finance~~ Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing.

D. The hearing shall be governed by the City of Tukwila Hearing Examiner's procedural rules. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the ~~Finance~~ Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

F. Interest and/or penalties shall continue to accrue on all unpaid amounts, in accordance with TMC 3.27.090 and 3.27.110, notwithstanding the fact that an appeal has been filed. If the hearing examiner determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer in accordance with TMC 3.27.100.

Section 6. Regulations Established. A new TMC Section 3.27.145 is hereby established to read as follows:

3.27.145 Judicial review of administrative appeal decision

After first exhausting the right of administrative appeal set forth in this chapter, the taxpayer or the City may obtain judicial review of the hearing examiner's administrative decision by applying for a writ of review in the King County superior court, in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules, within 21 calendar days of the date of the decision of the hearing examiner. The City shall have the same right of review from the administrative decision of the hearing examiner as does a taxpayer. The decision of the hearing examiner shall be final and conclusive unless review is sought in compliance with this section.

Section 7. Regulations Established. A new TMC Section 3.27.180 is hereby established to read as follows:

3.27.180 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 or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 8. Regulations Established. A new TMC Section 3.27.190 is hereby established to read as follows:

3.27.190 Ancillary allocation authority of Director

The Director is authorized to enter into agreements with other Washington cities which impose an eligible gross receipts tax:

1. To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of Tukwila, another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;

2. To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.

3. To apply the City's tax prospectively where a taxpayer has no office or place of business within the City and has paid tax on all gross income to another Washington city where the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the City.

Section 9. Regulations Established. A new TMC Section 3.27.200 is hereby established to read as follows:

3.27.200 Mailing of notices

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

Section 10. Regulations Established. A new TMC Section 3.27.210 is hereby established to read as follows:

3.27.210 Tax declared additional

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

Section 11. Regulations Established. A new TMC Section 3.27.220 is hereby established to read as follows:

3.27.220 Public disclosure – Confidentiality – Information sharing

A. For purposes of this section:

1. “Disclose” means to make known to any person in any manner whatever a return or tax information.

2. “Return” means a tax or information return or claim for refund required by, or provided for or permitted under, the Tukwila Municipal Code, which is filed with the Director, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

3. “Tax information” means:

a. A taxpayer’s identity;

b. The nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over-assessments, or tax payments, whether taken from the taxpayer’s books and records or any other source;

c. Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; or

d. Other data received by, recorded by, prepared by, or provided to the City with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under Chapter 3.26 TMC for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure.

3. “City agency” means every city office, department, division, bureau, board, commission, or other city agency.

4. “Taxpayer identity” means the taxpayer’s name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

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

C. This section does not prohibit the Director from:

1. Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding;

a. In respect of any tax imposed under Chapter 3.26 TMC if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or

b. In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;

2. Disclosing, subject to such requirements and conditions as the Director prescribes by rules adopted pursuant to TMC 3.27.180, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the City that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

3. Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

4. Disclosing such return or tax information, for official purposes only, to the mayor or city attorney, or to any city agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry, or the professions;

5. Permitting the city's records to be audited and examined by the proper state officer, his or her agents, and employees;

6. Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;

7. Disclosing any such return or tax information to the proper officer of the Internal Revenue Service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the city;

8. Disclosing any such return or tax information to the United States Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection Agencies of the United States Department of Homeland Security, the United States Coast Guard, the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, and the United States Department of Transportation, or any authorized representative of these federal agencies or their successors, for official purposes;

9. Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

10. Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American Industry Classification System or Standard Industrial Classification code of a taxpayer, and the dates of opening and closing of business. Except that this subsection may not be construed as giving authority to the city or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purpose;

11. Disclosing such return or tax information that is also maintained by another Washington State or local governmental agency as a public record available for inspection and copying under the provisions of Chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

12. Disclosing such return or tax information to the United States Department of Agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;

13. Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the city for a filed tax warrant, judgment, or lien against the real property;

14. Disclosing to a person against whom the director has asserted liability as a successor under TMC 3.27.130 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

15. Disclosing real estate excise tax affidavit forms filed under Chapter 3.60 TMC in the possession of the city, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

16. Disclosing such return or tax information to the court or hearing examiner in respect to the city's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the director in connection with its official duties under this title or a civil or criminal investigation.

D. The Director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (D).

1. The disclosure must be in connection with the Director's official duties under TMC Title 3, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The Director may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the Director may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general

journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

2. Before disclosure of any tax return or tax information under this subsection (D), the Director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The Director may not disclose any tax return or tax information under this subsection (D) until the time period allowed in subsection (D)(3) of this section has expired or until the court has ruled on any challenge brought under subsection (D)(3) of this section.

3. The person in possession of the data, materials, or documents to be disclosed by the director has 20 days from the receipt of the written request required under subsection (D)(2) of this section to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the Director if the court determines that:

a. The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

b. The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the director, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

c. The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

4. The Director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

5. Requesting information under subsection (D)(2) of this section that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

E. Service of a subpoena issued by the court or by a hearing examiner does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court or by the hearing examiner may disclose the existence or content of the subpoena to that person's legal counsel.

F. Any person acquiring knowledge of any return or tax information in the course of his or her employment with the City and any person acquiring knowledge of any return or tax information as provided under subsection (4), (5), (6), (7), (8), (9), or (11) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state,

such person must forfeit such office or employment and is incapable of holding any public office or employment in this city for a period of two years thereafter.

Section 12. Regulations Established. A new TMC Section 3.27.230 is hereby established to read as follows:

3.27.230 Tax constitutes debt

Any applicable fee or tax due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the city of Tukwila 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.

Section 13. Regulations Established. A new TMC Section 3.27.240 is hereby established to read as follows:

3.27.240 Unlawful actions – Violation - Penalties

A. It shall be unlawful for any person subject to the tax, fee, or registration provisions of this chapter:

1. To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the director;

2. To make any false statement on any license or registration application or tax return;

3. To aid or abet any person in any attempt to evade payment of a license, or fee, or tax;

4. To fail to appear or testify in response to a subpoena;

5. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.

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 penalties provided by law.

C. Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a registration certificate 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.

Section 14. Regulations Established. A new TMC Section 3.27.245 is hereby established to read as follows:

3.27.245 Suspension or revocation of business license

The Director shall have the power and authority to suspend or revoke any license issued under the provisions of TMC 5.04 if the licensee has failed to comply with the provisions of this chapter and Chapter TMC 3.26 (business and occupation tax). Such suspension or revocation shall follow the same procedure as provided in TMC 5.04.110 and TMC 5.04.112.

Section 15. Regulations Established. A new TMC Section 3.27.250 is hereby established to read as follows:

3.27.250 Closing agreement provisions

The Director 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 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 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 16. Regulations Established. A new TMC Section 3.27.255 is hereby established to read as follows:

3.27.255 Charge-off of uncollectible taxes

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably 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.

Section 17. Corrections by City Clerk or Code Reviser Authorized. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 18. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 19. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force on January 1, 2024, after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2023.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

Office of the City Attorney

Attachment: Comparison of Deviations from Core Model B&O Provisions and City of Tukwila Provisions

**Comparison of Deviations from Core Model Ordinance Provisions
and
City of Tukwila Provisions**

| B&O TAX PROVISION: | Summary of Change from Model B&O Tax Ordinance: |
|---|---|
| 3.26.050 Imposition of the tax – tax or fee levied. | (2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$750,000. |
| 3.26.090 Exemptions. | <ul style="list-style-type: none"> • Nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue code. • Businesses operating as a public card room. • Amateur/Professional/Semi-Professional sports teams operating in the City. • Adult family homes. • Health maintenance organization, health care service contractor, certified health plan. • International banking facilities • Real estate brokers and associated brokers, agents, or salesmen. • Ride sharing. • Credit unions. • Farmers – Agricultre. • Certain corporations furnishing aid and relief. • Certain fraternal and beneficiary organizations. • Operation of sheltered workshops. • Nonprofit organizations – Credit and debt services. • Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans. |
| 3.26.100 Deductions | <ul style="list-style-type: none"> • Compensation from public entities for health or social welfare services. |

| | |
|--|--|
| | <ul style="list-style-type: none"> • <u>Membership fees and certain services by nonprofit youth organization.</u> • <u>Initiation fees, dues, and certain charges received by nonprofit organization.</u> • <u>Artistic and cultural organizations.</u> • <u>Interest on obligations of the state, its political subdivisions, and municipal corporations.</u> • <u>Interest on loans to farmers and ranchers, producers, or harvesters of aquatic products, or their cooperatives.</u> • <u>Repair, maintenance, or replacement of residential structures and commonly held property by eligible organizations.</u> • <u>Certain advertising revenue by radio and television broadcasters.</u> |
| <p><u>3.27.150</u> Hardship Appeal Procedure</p> | <p>The Director shall develop a financial hardship appeal procedure by January 1, 2024.</p> |
| <p><u>3.27.160</u> Stakeholder Involvement</p> | <p>The City shall develop a stakeholder committee that includes members of the business community to advise the Director and City on the long-term financial sustainability of the City. This effort shall include a review of the appropriate levels of taxation of businesses within the City and will culminate before the 2025-2026 Biennial Budget process to inform the Council of any recommended changes to revenue sources for the coming biennium.</p> |
| <p><u>3.27.170</u> Review and Reporting Provisions</p> | <p>A. The City shall undertake a regular review of the Business and Occupation Tax as codified in TMC Chapter 3.26. During the 2023-2024 biennium, this review will occur through the stakeholder process identified in TMC Section 3.27.160. Beginning in the 2025-2026 biennium, the review shall occur in odd-numbered years to inform the budget process that commences the following year.</p> <p>B. The Director and Police Chief shall provide quarterly reports to the Council on public safety funding associated with the Business and Occupation Tax.</p> |



TUKWILA MUNICIPAL COURT

15005 Tukwila International Blvd., Tukwila, WA 98188

Main Line: (206) 433-1840 Fax: (206) 433-7160 Fax Email: Court@tukwilawa.gov

KIMBERLY A. WALDEN
Presiding Judge

LaTRICIA KINLOW
Judicial Branch Administrator

INFORMATIONAL MEMORANDUM

TO: **Finance and Governance**

FROM: **Tukwila Municipal Court**

BY: **Kimberly Walden, Presiding Judge**
LaTricia Kinlow, Judicial Branch Administrator

CC: **Mayor Ekberg, David Cline**

DATE: **October 23, 2023**

SUBJECT: **Request to Hire One Full-Time Court Operations Associate and Increase Current .75 FTE Court Operations Assistant to 1 FTE**

ISSUE

The Tukwila Municipal Court is requesting approval and funding for additional staffing to support the school zone photo enforcement program.

BACKGROUND

In 2019, the City Council approved the Police Department's request to implement photo enforcement for the school zone located at the 4500 block of S. 144th Street. During the approval process the Council asked if the municipal court will be impacted. I informed the Council based on my communication with my colleagues in other jurisdictions where photo enforcement occurs that the court would need an additional 1.25 FTE to support the photo enforcement program consisting of four cameras. The court's request was approved.

In August 2023, the City Council approved an amendment to the contract that will allow for additional photo enforcement cameras at the request of the Police Department. The initial communication was that two cameras would be added. Later we learned a total of four cameras will be added to the program. To support the expansion of the photo enforcement program, the court is requesting a budget amendment to increase staffing by 1.25 FTE.

DISCUSSION

The court has successfully implemented several technology enhancements to assist us with the processing of the photo enforcement infractions. This is the reason why our request for additional staffing is limited. Additional staffing is necessary to effectively and efficiently process the citations issued by the Police Department, adequately assist the customers who receive the infractions, and allow sufficient staffing to support the program.

FINANCIAL IMPACT

The estimated expense for supporting this request totals \$190,270. The breakdown is as follows:

| | |
|--|------------------|
| 2023 4 th Quarter 1 FTE Court Operations Associate (<i>New Hire</i>) | \$ 19,650 |
| 2024 Annual for 1 FTE Court Operations Associate (same as above) | \$117,920 |
| 2024 Annual for 1 FTE Court Operations Assistant (<i>Increase existing .75 FTE</i>) | <u>\$ 52,700</u> |
| | \$190,270 |

The above figures include salary and estimated benefits as provided by the Finance Department.

RECOMMENDATION

The Finance & Governance Committee is being asked to approve this request and submit this item to the Regular Council Meeting on November 20th.

- Cc: Vicky Carlsen – Finance Director
- Tony Cullerton – Deputy Finance Director
- Valerie Marino – Court Operations Supervisor
- Mindy Breiner – Court Support Services Manager



INFORMATIONAL MEMORANDUM

TO: **Finance & Governance Committee**

FROM: **Tony Cullerton, Deputy Finance Director**

CC: **Mayor Ekberg**

DATE: **November 13, 2023**

SUBJECT: **September 2023 General Fund Departmental Budget-to-Actuals Report**

Summary

The purpose of the September 2023 General Fund Financial Report is to summarize for the City Council the general state of departmental expenditures and to highlight significant items. The following provides a high-level summary of the departmental financial performance. The September 2023 report is based on financial data available as of November 1, 2023, for the period ending September 30, 2023.

As of the end of September, the General Fund expenditures are coming in as budgeted. The General Fund departments are operating within their allocated budgets. All overages have been identified and explained.

Expenditures

General Fund departmental expenditures totaled \$49.9 million through September, which is \$2.4 million below the allocated budget of \$52 million. Department 20, which transfers to other funds, reported \$4.5 million in expenditures. This number reflects transactions for debt payments and interfund activity. In total the General Fund activity YTD as of the end of September was \$54.4 million, which is below the allocated budget by \$2.8 million. However, due to ongoing labor negotiations, the \$2.8 million dollars under budget does not represent savings.

Allocated Budget

As of the end of September, all departments except Administrative Services and Fire are operating within their allocated budgets. The overage in **Administrative Services** is attributed to the Private LTE project that will be reimbursed by a state grant. The increase in **Fire** is due to higher than anticipated contracted services including overtime and increased call volume with dispatch services.

% Expended

When comparing YTD spending to the percent of year completed (75%), only Administrative Services and Fire finished the month above 75%. **Administrative Services** is a result of the Private LTE project. The increase in **Fire** pertains to higher than anticipated overtime and increased call volume with dispatch services.

2023 Compared to 2022

A few departments reported increases greater than 5% and \$50,000 when compared to the same period last year. However, in all cases, the increases are anticipated and explained. **Administrative Services** has been previously explained by the computer/laptop purchases for the Chromebooks, related to the Private LTE project. These expenditures will be reimbursed by a state grant. **Community Development** reported an increase over the prior year of \$308,489 (10%). However, the department is currently under budget, both Allocated and % Expended. **Police** is significantly under their allocated budget and finished the month at 68% at 75% of the year. However, because they were \$1.8 million (13%) over last year, we look further into the change. The increases in PD are salaries, OT, Supplies, and Tech Services. Salaries and OT are due to limited staffing. Examples of Supplies include equipment for firearm instructor school, revolver supplies, body cam repair kits. Tech Services is a contract between the City and Axon Enterprises. **Fire** has been previously explained.

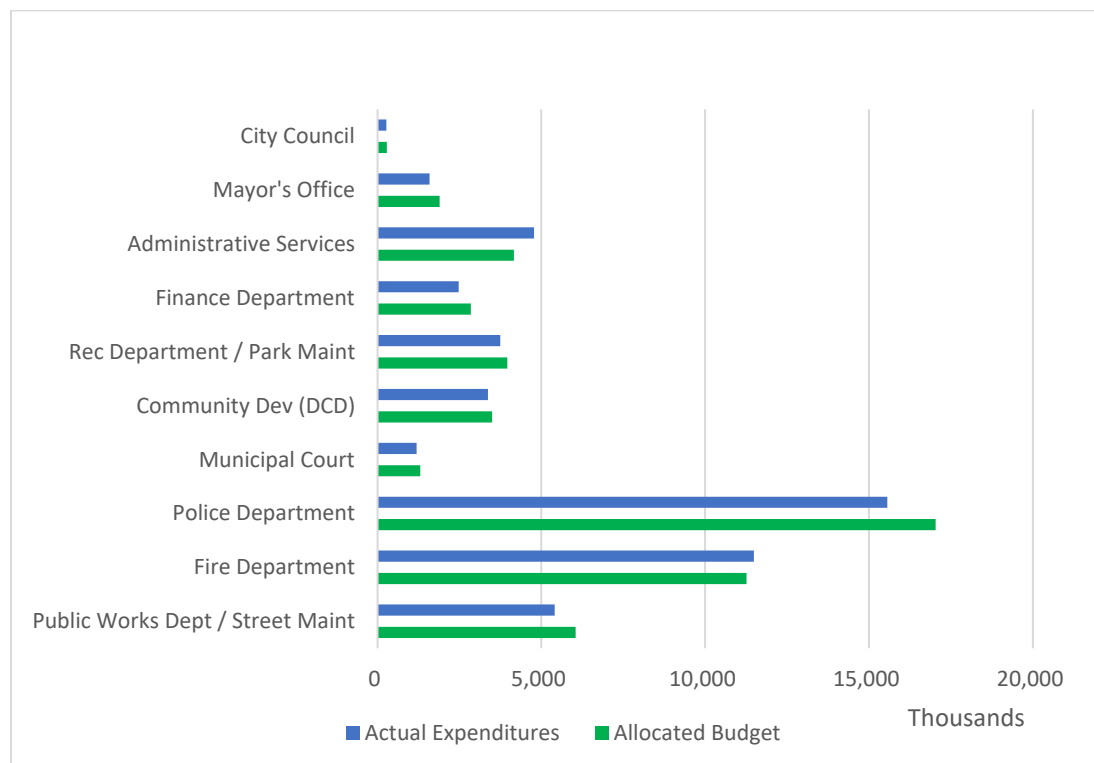
Departmental Variances

Year to Date Department Expenditures Through September 2023:

| DEPARTMENT | BUDGET | | ACTUAL | | | Allocated Budget vs Actual OVER/(UNDER) | % | \$ Change | % Change |
|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|---|--------------|------------------|-------------|
| | 2023 | 2023 | 2021 | 2022 | 2023 | | | | |
| | Annual | Allocated | | | | | | | |
| City Council | 384,889 | 286,333 | 253,457 | 263,478 | 273,753 | (12,580) | 71.1% | 10,275 | 3.9% |
| Mayor's Office | 2,502,666 | 1,900,892 | 1,462,714 | 1,532,984 | 1,592,997 | (307,895) | 63.7% | 60,013 | 3.9% |
| Administrative Services | 5,676,491 | 4,166,583 | 3,511,068 | 3,414,056 | 4,777,319 | 610,736 | 84.2% | 1,363,263 | 39.9% |
| Finance Department | 3,868,642 | 2,849,613 | 1,973,945 | 2,471,281 | 2,481,681 | (367,932) | 64.1% | 10,400 | 0.4% |
| Rec Dept / Parks Maint | 5,109,490 | 3,965,438 | 3,110,182 | 3,623,904 | 3,751,451 | (213,987) | 73.4% | 127,547 | 3.5% |
| Community Dev | 4,672,314 | 3,498,530 | 2,870,673 | 3,066,304 | 3,374,793 | (123,736) | 72.2% | 308,489 | 10.1% |
| Municipal Court | 1,741,340 | 1,306,005 | 905,547 | 1,148,351 | 1,194,503 | (111,502) | 68.6% | 46,152 | 4.0% |
| Police Department | 22,746,448 | 17,034,293 | 13,269,954 | 13,783,111 | 15,559,019 | (1,475,274) | 68.4% | 1,775,907 | 12.9% |
| Fire Department | 14,790,120 | 11,264,770 | 10,124,717 | 10,788,292 | 11,486,993 | 222,223 | 77.7% | 698,700 | 6.5% |
| PW Dept / Street Maint | 7,574,988 | 6,047,440 | 5,074,768 | 5,296,669 | 5,407,255 | (640,185) | 71.4% | 110,586 | 2.1% |
| Subtotal | 69,067,388 | 52,319,897 | 42,557,026 | 45,388,431 | 49,899,764 | (2,420,132) | 72.2% | 4,511,333 | 9.9% |
| Non Departmental | 6,688,881 | 4,915,723 | 3,793,874 | 7,588,145 | 4,540,861 | (374,862) | 67.9% | (3,047,284) | -40.2% |
| Total Expenditures | 75,756,269 | 57,235,620 | 46,350,900 | 52,976,577 | 54,440,625 | (2,794,995) | 71.9% | 1,464,048 | 2.8% |
| | | | | | | % of Year | 75.0% | | |

Overall General Fund departmental costs increased by 10% over the same period last year. The increases in expenditures were identified ahead of time and budgeted for.

The graph below displays Year to Date Department Expenditures Compared to Allocated Budget as of September 30, 2023.



General Fund by Category

Per ordinance, the City adopts a biennial budget by fund. This is the required level of reporting for external authoritative sources of oversight such as of the Washington State Auditor’s office. This level of reporting is also utilized for the purposes of debt issuance and by other stakeholders.

For managerial reporting and internal use, the city reports activity at the department level. This provides more details and additional information used by decision makers within the city and those charged with governess. In an effort to provide an enhanced level of reporting, additional information is being provided for activity at the transaction level that reflect an increase of more than **5%** over the prior year AND **\$50,000**, that are part of a Category that is reporting total activity above the % of Year calculation.

Allocated Budget

Capital Outlay is the only category that is over 75% for the year. The overage is with **Machinery & Equipment** within TIS. Specifically, an invoice for \$1,077,831 payable to Carahsoft Technology Corp. for the installation of a custom 4G turnkey private wireless network.

% Expended

The end of September represents the completion of 75% of the year. **Services** and **Capital Outlay** are the only expenditure categories that exceeded 75%. **Utilities** is reported at 87% expended. However, Utilities is below their allocated budget and in line with the prior year's spending. **Repairs & Maintenance Svcs.** is slightly above % Expended, coming in at 77%. Repairs & Maint. Svcs. is well below the prior year's spending but slightly above their allocated budget. **PD** (42%) and **PW** (29%) make up the lion share of the Repairs & Maintenance Svcs. expenditures. The increase in **PD** is related to Radios/Telemetry maintenance. The increase in **PW** is Non-Capital Improvements. Specifically, Underground installation paid to City of Seattle (\$222k). **Machinery & Equipment** is Carahsoft Technology Corp. for the installation of a custom 4G turnkey private wireless network.

\$ Change 2022/2023

Professional Services has been continuously reported as the Fire RFA agreement. **Professional Development** is below the allocated budget and below the % Expended. The higher amount compared to the prior year is a result of the return to in-person training and seminars. **Rentals** are up over the prior year, but below allocated budget as well as % Expended YTD. **Technology Services** is the PD software & maintenance agreement with the vendor Spillman. **Machinery & Equipment** is the infrastructure expenditures associated with the 4G turnkey private wireless network Private LTE Infrastructure grant secured by TIS.

INFORMATIONAL MEMO

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General Fund
City of Tukwila
General Fund Expenditures

Year-to-Date as of Sept 30, 2023

| | BUDGET | | ACTUAL | | | COMPARISON OF RESULTS | | | |
|--------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------------------|---------------|--------------------|----------------|
| | 2023 | 2023 | 2021 | 2022 | 2023 | Actual Budget vs Allocated | % | Change | |
| | Annual | Allocated | | | | | | \$ 2022/2023 | % 2022/2023 |
| Salaries | 25,787,016 | 19,340,262 | 20,852,627 | 22,317,753 | 17,243,703 | (2,096,559) | 66.9% | (5,074,051) | (22.7%) |
| Extra Labor | 769,106 | 651,741 | 133,207 | 341,367 | 482,846 | (168,894) | 62.8% | 141,480 | 41.4% |
| Overtime | 755,184 | 562,083 | 1,657,357 | 1,912,736 | 1,093,611 | 531,528 | 144.8% | (819,125) | (42.8%) |
| Holiday Pay | 250,000 | 104,300 | 78,815 | 88,723 | 107,875 | 3,575 | 43.1% | 19,152 | 21.6% |
| FICA | 2,110,086 | 1,582,565 | 1,325,755 | 1,443,877 | 1,422,672 | (159,893) | 67.4% | (21,205) | (1.5%) |
| Pension-LEOFF | 635,410 | 495,058 | 720,983 | 765,292 | 477,000 | (18,058) | 75.1% | (288,292) | (37.7%) |
| Pension-PERS/PSERS | 1,744,919 | 1,308,689 | 1,172,061 | 1,092,200 | 1,099,861 | (208,828) | 63.0% | 7,660 | 0.7% |
| Industrial Insurance | 586,183 | 439,638 | 686,508 | 559,943 | 311,315 | (128,323) | 53.1% | (248,628) | (44.4%) |
| Medical & Dental | 5,748,432 | 4,311,324 | 5,178,089 | 5,489,148 | 4,019,917 | (291,407) | 69.9% | (1,469,230) | (26.8%) |
| Unemployment | 0 | 0 | 36,827 | 37,205 | 2,076 | 2,076 | - | (35,130) | (94.4%) |
| Uniform/Clothing | 33,290 | 26,717 | 2,573 | 1,511 | 1,814 | (24,904) | 5.4% | 302 | 20.0% |
| Total Salaries & Benefits | 38,419,627 | 28,822,376 | 31,844,802 | 34,049,755 | 26,262,689 | (2,559,687) | 68.4% | (7,787,066) | (22.9%) |
| Supplies | 678,334 | 501,378 | 399,602 | 229,057 | 308,154 | (193,224) | 45.4% | \$79,098 | 34.5% |
| Repairs & Maint Supplies | 450,010 | 335,997 | 157,041 | 224,509 | 280,052 | (55,945) | 62.2% | \$55,543 | 24.7% |
| Resale Supplies | 2,500 | 1,900 | 0 | 141 | 0 | (1,900) | - | (\$141) | - |
| Small Tools | 213,203 | 161,153 | 37,736 | 44,898 | 62,264 | (98,888) | 29.2% | \$17,366 | 38.7% |
| Technology Supplies | 110,798 | 83,098 | 34,674 | 20,649 | 270,859 | 187,761 | 244.5% | \$250,210 | 1,211.7% |
| Fleet Supplies | 7,000 | 5,250 | 2,417 | 4,781 | 4,758 | (492) | 68.0% | (\$23) | (0.5%) |
| Total Supplies | 1,461,845 | 1,088,776 | 631,470 | 524,034 | 926,089 | (162,688) | 63.4% | \$402,054 | 76.7% |
| Professional Services | 21,798,537 | 16,799,367 | 5,090,536 | 5,109,905 | 16,742,653 | (56,714) | 76.8% | \$11,632,748 | 227.7% |
| Communications | 440,528 | 324,129 | 319,957 | 292,203 | 328,380 | 4,252 | 74.5% | \$36,178 | 12.4% |
| Professional Dev | 570,359 | 422,073 | 289,845 | 245,211 | 320,772 | (101,301) | 56.2% | \$75,561 | 30.8% |
| Advertising | 66,300 | 49,700 | 8,159 | 9,723 | 25,542 | (24,158) | 38.5% | \$15,819 | 162.7% |
| Rentals | 1,298,059 | 976,170 | 358,384 | 254,397 | 898,633 | (77,536) | 69.2% | \$644,236 | 253.2% |
| Technology Services | 1,031,264 | 762,331 | 405,636 | 479,498 | 706,695 | (55,635) | 68.5% | \$227,198 | 47.4% |
| Utilities | 2,244,354 | 1,992,152 | 1,941,426 | 1,991,071 | 1,969,916 | (22,235) | 87.8% | (\$21,155) | (1.1%) |
| Repairs & Maint Svs. | 1,286,418 | 964,187 | 1,491,134 | 1,657,097 | 994,576 | 30,389 | 77.3% | (\$662,521) | (40.0%) |
| Miscellaneous | 1,012,899 | 765,739 | 99,493 | 486,393 | 378,860 | (386,880) | 37.4% | (\$107,533) | (22.1%) |
| Total Services | 29,748,719 | 23,055,846 | 10,004,570 | 10,525,497 | 22,366,027 | (689,819) | 75.2% | 11,840,530 | 112.5% |
| Capital Outlay-Land | 0 | 0 | 0 | 0 | 0 | 0 | - | 0 | - |
| Other Improvements | 0 | 0 | 0 | 0 | 0 | 0 | - | 0 | - |
| Machinery & Equipment | 420,000 | 90,000 | 76,184 | 289,145 | 1,082,062 | 992,062 | 257.6% | 792,917 | 274.2% |
| Construction Projects | 0 | 0 | 0 | 0 | 0 | | | | |
| Total Capital Outlay | 420,000 | 90,000 | 76,184 | 289,145 | 1,082,062 | 992,062 | 257.6% | 792,917 | 274.2% |
| Transfers Out | 5,706,078 | 4,178,621 | 3,793,874 | 7,588,145 | 3,803,759 | (1,902,319) | 66.7% | (3,784,386) | (49.9%) |
| Total Non Operating Expense | 5,706,078 | 4,178,621 | 3,793,874 | 7,588,145 | 3,803,759 | (1,902,319) | 66.7% | (3,784,386) | (49.9%) |
| Total Expenditures | 75,756,269 | 57,235,620 | 46,350,900 | 52,976,577 | 54,440,626 | (4,322,451) | 71.9% | 1,464,049 | 2.8% |
| | | | | | | % of Year | 75.0% | | |

