



INFORMATIONAL MEMORANDUM

TO: Finance and Governance Committee

FROM: Vicky Carlsen, Finance Director

BY: Adam Schierenbeck, Senior Fiscal Coordinator

CC: Mayor McLeod

DATE: March 18, 2024

SUBJECT: City Taxes - TMC Amendments

ISSUE

Staff are proposing various housekeeping-type amendments to administer the admission, commercial parking, gambling, and utility tax more effectively. These proposed amendments include, but are not limited to, applying uniform penalty and interest rates; applying a uniform lookback period for tax assessments and refunds; and providing uniform enforcement provisions, confidentiality provisions, and the ability for the Finance Director to establish tax rules. Staff are also proposing to add business and occupation (B&O) exemptions for public utilities that were previously intended to apply, as well as codify an admission tax exemption for the activity of bowling and related equipment rental (e.g., bowling balls and shoes). Finally, staff recommend amending certain definitions to remove ambiguity and provide greater clarity and consistency.

BACKGROUND

On December 4, 2023, the City Council passed [Ordinance No. 2727](#), establishing additional B&O tax exemptions and additional administrative provisions that apply to the City's B&O tax, to aid the City in equitably administering and enforcing the tax. See *generally* chapters 3.26 (B&O Tax) and 3.27 (B&O Tax Administrative Provisions) of the Tukwila Municipal Code (TMC). Since the passage of Ordinance No. 2727, an oversight was found that makes certain utility businesses subject to both B&O tax and utility tax. It is recommended that the TMC be amended consistent with the model B&O ordinance so that public utilities subject to the utility tax are exempt from B&O tax.

In addition to the B&O tax, the City also imposes other taxes, such as admission and entertainment tax (chapter 3.20 TMC), commercial parking tax (chapter 3.48 TMC), gambling activities tax (chapter 3.08 TMC), and utility tax (chapter 3.54 TMC). These tax chapters currently lack adequate enforcement provisions and are silent on issues that are currently addressed in the B&O tax administrative code and would benefit from sharing the same administrative provisions as the B&O tax.

On November 28, 2022, when the City Council initially adopted the B&O tax and related administrative provisions by [Ordinance No. 2689](#), a financial hardship appeal provision was included that deviated from the model ordinance. Upon further review by the City Attorney's Office, it has been determined that it would be difficult for the Finance Director to effectively and consistently administer such a provision. Therefore, it is recommended that the financial hardship provision be repealed.

Finally, upon reviewing the definitions by which tax is levied on admission and entertainment charges, commercial parking, and utility activities, it has also been determined that there is ambiguity within some of the existing definitions, as well as ambiguity relating to how cellular

telephone service revenues should be allocated to the City. This review further concluded that an admission tax exemption should be specifically granted for bowling activities to align with the City's past practice and the common practice of neighboring cities who also exempt bowling activities and related rental fees from the admission and entertainment tax.

DISCUSSION

Staff are proposing the following code amendments to administer the admission tax, commercial parking tax, gambling tax, and utility tax more effectively. The proposed amendments also will align certain definitions and exemptions with other Washington cities and Tukwila's past practice administering the various tax codes.

Definition Changes

The following definition changes are recommended, which are common to neighboring cities that levy similar taxes, remove ambiguity, and provide corrections to outdated terminology.

1. Admission & Entertainment Tax:
 - a. Amend the definition of "admission charge" to include those activities for which "recreation" or amusement is provided, as provided in RCW 35.21.280, and to clarify the activities subject to tax as provided for in the existing definitions.
 - b. Adding other definitions to clarify the activities and organizations for which the tax does or does not apply.
2. Commercial Parking Tax: Amend the definitions to clarify the activities to which the commercial parking tax applies.
3. Utility Tax: Provide updated definitions for "telephone business." Equivalent changes were made by the State of Washington in 2007 to conform Washington's tax structure to the Streamlined Sales and Use Tax Agreement and, in 2002, to the federal Mobile Telecommunications Sourcing Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunication services (see [SB 6539 – 2001-02](#)). At the time, the state legislature recognized that the clarifications are likely revenue-neutral at the state level.

Additional Exemptions

The following additional exemptions are recommended, as they are common to neighboring cities that impose similar taxes. In the case of public utilities subject to utility taxes and/or franchise fees, the exemption from B&O tax is mandated by the B&O tax model ordinance.

- Admission tax exemption for participating in bowling and related equipment rental.
- B&O tax exemption for gross income derived from public utility activities on which a franchise fee is imposed by the City (e.g., water and sewer utilities), and for solid waste collection activities that are subject to the City's utility tax.

Tax Administrative Provisions

The Washington B&O tax model ordinance provides several administrative provisions that were previously enacted to effectively administer and enforce the B&O tax. These same administrative provisions are commonly used by other cities to administer other city-imposed taxes. The City hereby seeks to expand the current B&O tax administrative provisions to the admission & entertainment tax, commercial parking tax, gambling activities tax, and utility tax.

Where similar provisions currently exist within the various tax chapters in Title 3 TMC, staff is recommending that these be repealed to avoid ambiguity, as they will be covered in chapter 3.27 TMC, Administrative Provisions. This will provide for the following consistency across most tax types:

- Establish a uniform lookback period for tax assessments and refunds.
- Establish uniform penalty and interest rates for delinquent taxes (and tax refunds). This includes uniform provisions by which late return penalties may be waived by the City.
- Establish uniform rules regarding successorship, and tax liability of a successor.
- Establish a uniform policy regarding required record-keeping of persons engaging in business in the City, including the requirement to furnish any records or information requested by the City to verify a tax liability, and related enforcement provisions.
- Establish a uniform administrative appeal procedure, and the right to judicial review if the City or the taxpayer disagree with the decision of the hearing examiner.
- 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 similar taxes. 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.
- Specify that the taxes are in addition to other city-imposed taxes and license fees, as applicable.
- 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's name, address, and open/closed status, and to publish general statistics.
- Specify that it is unlawful to fail to comply with the requirements of the taxes levied in Title 3 TMC, 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 and/or delinquent back taxes owing.
- Specify that the Director has authority to revoke a business license for failure to comply with the tax provisions in Title 3 TMC, according to the suspension and revocation procedures set forth in Chapter 5.04 TMC.
- 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 based on established criteria.

Additional Provisions

In addition to the changes noted above, staff are recommending that the following provisions be added to or removed from the City's tax codes, to align with neighboring cities:

- Provide that unpaid gambling tax and associated penalties and interest become a lien upon personal and real property used in the gambling activity in the same manner as provided for under [RCW 84.60.010](#).
- Remove the requirement for persons to submit a copy of the business license application filed with the Washington State Gambling Commission prior to engaging in gambling activities. Chapter 3.08 already provides that persons must furnish a copy of the license issued by the State Gambling Commission prior to engaging in business within the City.
- Provide that commercial parking tax is held in trust by the business responsible for collecting and remitting the tax, and the amount of tax must be disclosed to the person paying the tax.
- Provide a specific method by which gross income from cellular telephone service is allocated to the City. While an equivalent result would likely apply absent this addition, it provides clarity for businesses and is a common provision found among neighboring cities.
- Repeal the financial hardship appeal provision from the B&O tax administrative provisions. This code section was added at the time the B&O tax was adopted in 2022. It deviated from the model ordinance and, upon further review by the City Attorney's Office, it has been determined that such a provision would be difficult for the Finance Director to effectively and consistently administer.

FINANCIAL IMPACT

The code changes will not have a significant financial impact on tax revenues. Although B&O tax exemptions are being added for water utilities and solid waste collection businesses, these businesses previously have been presumed to be exempt from B&O tax on account of the model ordinance. The financial impact of the changes to penalties and interest for admission, gambling, parking, and utility tax cannot be determined based on the information available.

RECOMMENDATION

Review and respond to the proposed redlined code changes. The Council is being asked to consider this item at the April 8, 2024 Committee of the Whole meeting and adopt the ordinance at the subsequent April 15, 2024 Regular Meeting.

ATTACHMENTS

- A. Draft Ordinance

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON; AMENDING AND REPEALING VARIOUS ORDINANCES AS CODIFIED IN VARIOUS SECTIONS OF TUKWILA MUNICIPAL CODE (TMC) CHAPTERS 3.08, “GAMBLING ACTIVITIES TAX,” 3.20, “ADMISSIONS AND ENTERTAINMENT TAX,” 3.27, “BUSINESS AND OCCUPATION ADMINISTRATIVE PROVISIONS,” 3.48, “COMMERCIAL PARKING TAX,” 3.50, “UTILITY TAX,” AND 3.51, “SOLID WASTE UTILITY TAX”; RETITLING TMC CHAPTERS 3.20 AND 3.27; ESTABLISHING AND APPLYING ADMINISTRATIVE AND OTHER PROVISIONS UNIFORMLY AMONG THE VARIOUS BUSINESS TAXES; CLARIFYING THE ACTIVITIES SUBJECT TO ADMISSION TAX, BUSINESS AND OCCUPATION TAX, PARKING TAX, AND UTILITY TAX; 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 (B&O) tax on business activities within the City; and

WHEREAS, on December 4, 2023, the City Council adopted Ordinance No. 2727, establishing additional administrative provisions that aid the City in administering and enforcing the B&O tax; and

WHEREAS, the City imposes other business taxes, including a tax on gambling activities, admission and entertainment activities, commercial parking, and utilities, for which applying the same administrative provisions would serve to meet the City’s own objectives and equitably and consistently administer these taxes; and

WHEREAS, the City seeks to exempt all public utility activities that are subject to a utility tax or a franchise fee within the City from the B&O tax levied in Tukwila Municipal Code (TMC) Chapter 3.26, “Business and Occupation Tax,” thereby establishing uniformity with other Washington cities; and

WHEREAS, the City seeks to clarify the activities to which the admission and entertainment tax, commercial parking tax, and telephone utility tax applies within TMC Chapters 3.20, 3.48, and 3.50, respectively; and

WHEREAS, the City seeks to develop consistency among the various tax provisions in TMC Title 3, "Revenue and Finance," to enhance clarity and consistency of the tax requirements;

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

Section 1. Regulations Established. A new TMC Section 3.08.015 is hereby established to read as follows:

3.08.015 General Administrative Provisions Apply

The administrative provisions contained in TMC Chapter 3.27 shall be fully applicable to the provisions of this chapter, except as expressly stated to the contrary herein. The administration and collection of tax imposed by this chapter shall be by the Finance Director and in strict compliance with the rules and regulations, as may be adopted or amended by the Washington State Gambling Commission from time to time.

Section 2. TMC Section 3.08.020 Amended. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.020, "License Required – Nuisance Designated," is hereby amended to read as follows:

3.08.020 Filing Declaration of Intent~~License Required – Nuisance Designated~~

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 as authorized by chapter 9.46 RCW, as now existing and hereafter amended, shall, prior to commencement of any such activity, file with the Finance Director a sworn declaration of intent to conduct or operate such activity, together with a true and correct copy of the license issued by the Washington State Gambling Commission in accordance with chapter 9.46 RCW. ~~No gambling activity of any kind or nature shall be permitted without a valid, subsisting license issued by the Washington State Gambling Commission as provided by law; and any person, firm or corporation who conducts any such gambling activity without such license shall be guilty of a misdemeanor. The conducting of any such gambling activity without a license or beyond the scope specified in such license as required under State laws is a common nuisance and shall be subject to abatement by injunction or as otherwise provided by law.~~

Section 3. Regulations Established. A new TMC Section 3.08.025 is hereby established to read as follows:

3.08.025 Definitions

The definitions contained in TMC Chapter 3.27 shall have full force and application with respect to taxes imposed under the provisions of this chapter, except as expressly stated to the contrary herein or defined otherwise in chapter 9.46 RCW.

For purposes of this chapter, “social card game business” means any premises or facility open to the public and engaged in the business of operating a social card room for a period of 30 days. For purposes of this section, the 30 days are not required to be consecutive days. After 30 days of operation, the tax rate provided in TMC Section 3.08.030(4) applies and that rate shall be paid thereafter beginning with the following calendar quarter.

Section 4. TMC Section 3.08.030 Amended. Ordinance Nos. 1809 §1 (part), 2349 §2, and 2590 §1 (part), as codified at TMC Section 3.08.030, “Tax Rates,” is hereby amended to read as follows:

3.08.030 Tax LeviedRates

A. Pursuant to RCW 9.46.110, ~~as it exists or may hereafter be amended and RCW 9.46.120, as amended by the Laws of Washington, effective July 27, 1997,~~ there is levied upon all persons, associations and organizations operating with the City who have been duly licensed by the Washington State Gambling Commission, as authorized by law, the following tax:

1. ~~For Bingo games and raffles: To conduct or operate any~~ bingo games and raffles, a tax rate of five percent (5%) of the gross receipts revenue received therefrom, less the ~~actual~~ amount awarded ~~paid by such person, association or organization for or as~~ cash or merchandise prizes.

2. ~~For Amusement game: To conduct any~~ amusement games, a tax rate of two percent (2%) of the gross receipts revenue received therefrom, less the ~~actual~~ amount awarded ~~paid by such person, association or organization for or as~~ prizes.

3. ~~Punchboards or pulltabs:~~ For the conduct or operation of any punchboards or pulltabs, a tax rate of five percent (5%) of the gross receipts from such activities for commercial stimulant operators (taverns, restaurants, etc.); and a tax rate of ten percent (10%) on the gross receipts, less the amount awarded ~~paid out~~ as prizes for charitable or nonprofit organizations.

4. ~~Social card games: a.~~ For the conduct or operation of ~~any premises or facility used to play~~ social card games business, a tax rate of eleven percent (11%) percent of the gross receipts received therefrom; provided that when the number of card rooms in the City exceeds five, the tax rate shall increase to fifteen percent (15%) percent of the gross receipts received therefrom. Additionally, when the number of card rooms exceeds six, the tax rate shall increase to twenty percent (20%) of the gross receipts received therefrom. ~~b. For purposes of this provision, an operating business is defined as: a business open to the public and engaged in the business of operating a social card room for a period of 30 days. For purposes of this section, the 30 days are not required to be consecutive days. After the 30 days of operations, which triggers the increased tax rate, the Finance Director or his or her designee, shall notify the social card rooms of the increased rate and that rate shall be paid thereafter by all card rooms in this tax category, starting the financial quarter after notification.~~

~~— B. Non-Profit Organizations.~~

~~1. No tax shall be imposed under the authority of TMC Chapter 3.08 on bingo or raffles when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.0209, which organization has no paid or management personnel, and has gross income from bingo and raffles, or any combination thereof, not exceeding \$5,000 per year, less the amount paid for or as prizes.~~

~~2. The Finance Director may waive the tax due each quarter from a bona fide charitable or nonprofit organization as defined in RCW 9.46.0209. This waiver may occur only if the charitable or nonprofit organization demonstrates by clear and convincing documentation that an amount equal to at least 70% of the tax due the City, as computed pursuant to TMC Section 3.08.030, will be donated to charitable nonprofit organizations serving the City whose purpose is to provide programs or facilities for meeting the basic health, education, welfare, or other needs of the residents of the City. Failure to donate at least 70% of the tax due the City will result in revocation of the waiver and the disqualification of the bona fide charitable or nonprofit organization to receive a waiver for future tax payments.~~

Section 5. Regulations Established. A new TMC Section 3.08.035 is hereby established to read as follows:

3.08.035 Exemptions – Nonprofit Organizations

A. No tax shall be imposed under the authority of TMC Chapter 3.08 on bingo or raffles when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.0209, which organization has no paid or management personnel, and has gross income from bingo and raffles, or any combination thereof, not exceeding \$5,000 per year, less the amount awarded for, or as prizes.

B. The Director may waive the tax due each quarter from a bona fide charitable or nonprofit organization as defined in RCW 9.46.0209 if the charitable or nonprofit organization demonstrates by clear and convincing documentation that an amount equal to at least 70 percent of the tax due the City, as computed pursuant to TMC Section 3.08.030, will be donated to charitable nonprofit organizations serving the City whose purpose is to provide programs or facilities for meeting the basic health, education, welfare, or other needs of the residents of the City. Failure to donate at least 70 percent of the tax due the City will result in revocation of the waiver and the disqualification of the bona fide charitable or nonprofit organization to receive a waiver for future tax payments.

Section 6. TMC Section 3.08.050 Amended. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.050, “Administration and Collection of Tax,” is hereby amended to read as follows:

3.08.050 Administration and Collection of Tax Payment – Activity Report

A. The tax imposed by this chapter shall be due and payable in quarterly installments, and remittance therefor, together with the return forms as prescribed by the Director, shall be made on or before the last day of the month following the quarterly period in which tax is accrued.

B. Every holder of a license issued by the Washington State Gambling Commission who conducts any taxable gambling activities within the City shall provide to the City a true copy of each periodic activity report, license report, or amendments thereto required to be filed with the State Gambling Commission pursuant to Chapter 230-05 WAC. Such information shall be provided to the City no later than the date of filing required by the State Gambling Commission.~~The administration and collection of tax imposed by this chapter shall be by the Finance Director and in strict pursuance of the rules and regulations as may be adopted by the Washington State Gambling Commission from time to time. The Finance Director shall adopt and publish such rules and regulations as may be reasonably necessary to enable the collection of the tax imposed hereby.~~

Section 7. Repealer. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.060, "Declaration and Statements Required to be Filed," is hereby repealed, thereby eliminating this section:

~~**3.08.060 — Declaration and Statements Required to be Filed**~~

~~— A. For the purpose of properly identifying the person, association and organization subject to any tax imposed by this chapter, such person, association or organization intending to conduct or operate any gambling activity authorized by the above specified laws, or as the same may be amended hereafter, shall, prior to commencement of any such activity, file with the Finance Director a sworn declaration of intent to conduct or operate such activity, together with a true and correct copy of the license issued by the Washington State Gambling Commission or any renewal or extension of such license or temporary license.~~

~~— B. Thereafter, for any period covered by such State license or any renewal or extension 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 Finance Director a sworn statement, under penalty of perjury, on a form to be provided and prescribed by the Finance Director for the purpose of ascertaining the tax due for the preceding quarterly period.~~

~~— C. In addition, any such person, association or organization shall file with the Finance Director copies of any daily, weekly, monthly or other periodic tax statements, financial reports, daily control sheets, daily time sheets, records of attendance, or any other information required to be filed by it to the State of Washington Gambling Commission.~~

~~— D. The Chief of the Police Department may establish such further and additional reporting requirements of any person, association or organization authorized to conduct gambling activities in the City which are reasonably intended to provide information to the City regarding the conduct of said activities.~~

Section 8. Repealer. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.070, "Filing of Application with Finance Director," is hereby repealed, thereby eliminating this section:

~~3.08.070~~ — ~~Filing of Application with Finance Director~~

~~— Each person, association, or organization licensed by the Washington State Gambling Commission shall likewise submit to the Finance Director a true and correct copy of any application made to such commission for a license, together with any and all amendments thereof. Such copy shall be submitted at or prior to the filing of the first tax return due under this chapter.~~

Section 9. Repealer. Ordinance Nos. 1809 §1 (part), 2323 §3, and 2349 §3, as codified at TMC Section 3.08.080, “Payment of Tax – Penalty for Late Payments,” is hereby repealed, thereby eliminating this section:

~~3.08.080~~ — ~~Payment of Tax – Penalty for Late Payments~~

~~— 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 following the quarterly period in which the tax accrued.~~

~~— B. If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the tax per month for each month overdue, which shall be added to the amount of the tax due.~~

Section 10. TMC Section 3.08.090 Amended. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.090, “Unlawful Acts Designated – Liability,” is hereby amended to read as follows:

3.08.090 Unlawful Acts Designated – Liability – Tax Constitutes Debt

A. Any person, association or organization that shall fail, neglect or refuse to pay the tax required by this chapter, or that shall willfully disobey any rule or regulation promulgated by the Finance Director under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the City jail for not more than 90 days or by a fine of not more than \$~~5~~1,000.00 or both. Any such fine shall be in addition to any tax, ~~and~~ penalties, and interest required.

B. All officers, directors and managers of any organization or association conducting gambling activities shall be jointly and severally liable for the payment of said tax, penalties, and interest for the payment of any fine imposed under this chapter.

C. Any tax due and unpaid under this chapter and all penalties and/or interest shall constitute a debt to the City. The City may use a collection agency to collect outstanding debts, or it may seek collection by court proceedings, which remedies shall be in addition to all other existing remedies. Furthermore, pursuant to RCW 9.46.110(4), taxes imposed under this chapter and associated penalties and/or interest become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

Section 11. Repealer. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.100, “Finance Director – Powers and Duties,” is hereby repealed, thereby eliminating this section:

~~**3.08.100 Finance Director – Powers and Duties**~~

~~—The Finance Director or authorized representative shall adopt, publish and enforce such rules and regulations not inconsistent with this chapter as may be necessary to enable the prompt collection of the tax and penalties imposed by this chapter; prescribe and issue the appropriate forms for determination and declaration of the amount of tax to be paid; and have the power to enter into contracts with other municipalities and/or State agencies for the collection of the tax imposed on gambling activities conducted within the City.~~

Section 12. TMC Section 3.08.110 Amended. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.110, “Enforcement Authority – Access to Financial Records,” is hereby amended to read as follows:

3.08.110 Enforcement Authority – Access to Financial Records

A. The Mayor, Finance Director, and Chief of Police shall have the power to enter into contracts with other municipalities and/or State agencies for the enforcement of applicable State laws, rules and regulations and City ordinances relating to all gambling activities.

B. It shall be the responsibility of each person, association, or organization ~~any owner, director and manager of any organization~~ conducting any gambling activity as licensed by the Washington State Gambling Commission and taxed under the provisions of this chapter, to maintain and provide access at all reasonable times to all books, records, and information required ~~financial records, including bank deposits, invoices, accounts payable and related financial statements, as the Finance Director or his/her authorized representative, or any bona fide law enforcement representative of the City may require~~ in order to determine full compliance with this chapter and all rules and regulations adopted or hereafter adopted by the State of Washington Gambling Commission. Such records shall be kept and maintained for a period of not less than five years. In addition, all information and items required by the Washington State Gambling Commission, and the United States Internal Revenue Service respecting taxation, shall be kept and retained for the periods required by those agencies.

C. The Director and Chief of the Police Department may establish such further and additional reporting requirements of any person, association or organization authorized to conduct gambling activities in the City which are reasonably intended to provide information to the City regarding the conduct of said activities.

Section 13. TMC Section 3.08.130 Amended. Ordinance No. 1809 §1 (part), as codified at TMC Section 3.08.130, “List of Licenses to be Kept,” is hereby amended to read as follows:

3.08.130 List of Licensees to be Kept

It shall ~~further~~ be the responsibility of the Finance Director to keep on file a complete and up-to-date list of the licensees ~~issued~~ authorized by the Washington State Gambling Commission ~~who operate within the City, as the same is made available at said office,~~ which information shall include the name, address, type of license and license number of each such licensee. Nothing in this provision shall require the City to seek or obtain licenses from the Gambling Commission.

Section 14. Chapter Title. Ordinance No. 1733, as codified at TMC Chapter 3.20, "Admissions and Entertainment Tax," is hereby amended to retitle the chapter as follows:

CHAPTER 3.20 ADMISSIONS ~~AND ENTERTAINMENT~~ TAX

Sections:

- 3.20.005 General Administrative Provisions Apply
- 3.20.010 ~~Admission Charge~~ Definitions
- 3.20.020 ~~Admissions~~ Tax Levied – Measure of Tax
- 3.20.025 Exemptions
- ~~3.20.030 Determination of Amount~~
- 3.20.035 Tax Payment and Collection
- ~~3.20.040 Collection – Remittance to Finance Director~~
- ~~3.20.050 Application and Reporting~~
- 3.20.060 Violations

Section 15. Regulations Established. A new TMC Section 3.20.005 is hereby established to read as follows:

3.20.005 General Administrative Provisions Apply

The administrative provisions contained in TMC Chapter 3.27 shall be fully applicable to the provisions of this chapter, except as expressly stated to the contrary herein.

Section 16. TMC Section 3.20.010 Amended. Ordinance Nos. 1733 §1 and 2080 §1, as codified at TMC Section 3.20.010, "Admission Charge – Definitions," is hereby amended to read as follows:

3.20.010 Admission Charge – Definitions

A. "Admission charge," in addition to its usual and ordinary meaning, means a monetary charge for entering a premise or location, shall include but not ~~be~~ limited to, the following:

1. A charge made for season tickets or subscriptions;
2. A cover charge or a charge made for use of seats or tables, reserved or otherwise, and similar accommodations.
- ~~3.~~ 3. A charge made for rental or use of equipment or facilities for purposes of entertainment recreation or amusement and, where the rental of the equipment or

facilities is necessary to the enjoyment of the privilege for which general admission is charged, the combined charge shall be considered as the admission charge.

~~4.3.~~ A charge made for ~~entertainment activities or~~ admission to any theater, dance hall, cabaret, ~~tavern~~~~adult entertainment cabaret~~, private club, auditorium, ~~stadium, athletic pavilion or field~~, circus, side show, outdoor amusement park or any similar place; and includes equipment to which persons are admitted for purposes of ~~entertainment recreation including, but not limited to, such as~~ merry-go-rounds, Ferris wheels, dodge 'ems, roller coasters, go-carts and other rides, whether such rides are restricted to tracks or not.

5. A charge made for entrance to any building, enclosure or area in which there is a golf driving range, miniature golf course, short nine, or other golf course, or to gain entrance to such course itself, or for the use of the facilities thereof, or any rental paid by the person paying for such entry for the use of equipment and facilities supplied him and appropriate to the enjoyment of the privilege for which the admission is charged, or the aggregate thereof.

B. "Cabaret" shall have the same meaning as defined in TMC Section 5.08.010.

C. "Governmental entity" means any federal, state, or local government, or branch thereof, also includes any public facility or any public facility, service, or utility district that is exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code, as adopted or as amended.

D. "Nonprofit organization" means an organization that is exempt from federal income tax under Section 501(c)(3), (4), or (6) of the Internal Revenue Code, as adopted or amended, or is specifically exempted from the requirement to apply for tax exempt status under Section 501(c)(3).

E. "Secondary school" or "elementary school" means any public or private primary school, middle school, junior high school, high school, or any accredited college, junior college, university, or the recognized student body association thereof.

~~4. A sum or money referred to as "a donation" which must be paid before entrance is allowed.~~

~~5. "Admission charge" does not include public school activities and other non-profit endeavors.~~

Section 17. TMC Section 3.20.020 Amended. Ordinance Nos. 1733 §2, 2080 §2, and 2674 §1, as codified at TMC Section 3.20.020, "Admissions Tax Levied," is hereby amended to read as follows:

3.20.020 Admissions Tax Levied—Measure of Tax

A. There is levied and shall be collected a tax from every person, without regard to age, who pays an admission charge to any place within city limits. The amount of tax charged on admission charges shall be equal to the admission charge multiplied by the rate of five percent. ~~There is hereby levied a 5% tax on admissions for entertainment~~

~~purposes in the City of Tukwila. Such tax is to continue indefinitely or until amended or repealed by the City Council.~~

B. The admission charge to any cabaret or private club conducting cabaret activities, or any similar place of entertainment, is deemed to be the total amount charged as an admission charge, and/or a charge made for the use of seats and tables reserved or otherwise, and other similar accommodations. A participation cost or minimum purchase of food and/or beverages in lieu of a cover charge is deemed a taxable admission charge. ~~The transfer of admissions tax from the Foster Golf Links Fund to the General Fund shall be waived: Beginning in the 2019-2020 budget biennium, the City of Tukwila's General Fund will forego collection of admissions tax from Foster Golf Course until legislative action is taken to reinstate said collection and, further, admissions tax revenues collected by the Foster Golf Course shall be allocated to the Foster Golf Link Fund until legislative action is taken to reallocate such revenues to the General Fund.~~

C. When entertainment or admission to an event or activity accompanies the sale of food and/or beverages, merchandise, lodging, or services, admission taxes are measured by the total price of the combined transaction, unless the admission price for the entertainment, amusement, rental, or use of equipment is printed separately on the ticket, invitation, or other signage and reflects its true market value as an independent element.

D. If the ticket price is accompanied by a service charge, mailing fee or other ancillary payment, per ticket and/or per order, the admission tax shall be based upon the total sum of the admission price plus any such surcharge(s), whether or not they are printed on the ticket order.

Section 18. Regulations Established. A new TMC Section 3.20.025 is hereby established to read as follows:

3.20.025 Exemptions

A. The admissions tax imposed in this chapter shall not apply to anyone paying an admission charge as follows:

1. To an elementary school, secondary school, governmental entity, or nonprofit organization. However, governmental activities operated in the manner of a separate business enterprise shall not be exempt from this tax. By way of example and not limitation, a business enterprise subject to the admissions tax imposed in this chapter could include an event center or golf course, if operated as a business activity in a separate fund; or

2. To actively participate in bowling or to rent bowling shoes or equipment.

3. Beginning in the 2019 - 2020 budget biennium, the City of Tukwila's General Fund will forego collection of admissions tax from Foster Golf Course until legislative action is taken to reinstate said collection and, further, admissions tax revenues collected by the Foster Golf Course shall be allocated to the Foster Golf Link Fund until legislative action is taken to reallocate such revenues to the General Fund.

Section 19. Repealer. Ordinance No. 1733 §3, as codified at TMC Section 3.20.030, “Determination of Amount,” is hereby repealed, thereby eliminating this section:

~~3.20.030 — Determination of Amount~~

~~— A. Amount — The tax here imposed shall be in the amount of 5% on each admission or entertainment charge.~~

~~— B. Cabarets and similar places — The admission charge to any cabaret, adult entertainment cabaret, private club conducting cabaret activities, or any similar place of entertainment is deemed to be the total amount charged as an admission charge, a cover charge, and/or a charge made for the use of seats and tables reserved or otherwise, and other similar accommodations. A minimum drink or participation cost in lieu of a cover charge is deemed a taxable event.~~

~~— C. Signs posted — Whenever a charge is made for admission to any place, a sign shall be posted in a conspicuous place on the entrance or ticket office stating that a 5% city admission tax is included in the admission charge.~~

Section 20. Regulations Established. A new TMC Section 3.20.035 is hereby established to read as follows:

3.20.035 Tax Payment and Collection

A. The tax imposed by this chapter shall be due and payable in monthly installments, and remittance therefor, together with the return forms as prescribed by the Director, shall be made by the last day of the month following the end of the monthly period in which tax is accrued.

B. The tax levied in this chapter shall be paid by the person paying the admission charge and remitted by the person to whom the same is paid. The tax collected under this chapter shall be deemed held in trust by the person required to collect the same until the taxes are remitted to the Director under this section. Persons failing to collect the admission tax, or who collects the tax but fails to remit it to the Director, shall be liable to the City for the amount of such tax and associated penalties and/or interest due.

C. If the amount of admissions tax is not separately stated from the admission charge on all instruments evidencing the admission charge, a sign shall be posted in a conspicuous place on the entrance or ticket office stating that a City admissions tax of five percent is included in the admission charge. Except when the requirements of this subsection are satisfied, it shall be conclusively presumed that the admission charge does not include the admission tax levied in this chapter.

D. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the Director shall be the judge, the report and remittance of the admissions tax may be required 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.

Section 21. Repealer. Ordinance No. 1733 §4, as codified at TMC Section 3.20.040, “Collection – Remittance to Finance Director,” is hereby repealed, thereby eliminating this section:

~~**3.20.040 — Collection — Remittance to Finance Director**~~

~~A. The tax imposed hereunder shall be collected from the person paying the admission charge at the time the admission charge is paid, and such taxes shall be remitted by the person collecting the tax to the Finance Director in monthly remittances on or before the last day of the month succeeding the end of the monthly period in which the tax is collected or received, and accompanied by such reports as the Finance Director shall require.~~

~~— B. Any person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Finance Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for the amount; provided, that the Finance Director may at his discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable.~~

~~— C. If the return provided for herein is not made and transmitted and the tax is not collected and remitted to the City by the last day of the month succeeding the end of the month in which the tax was collected, the Finance Director shall add a penalty of 10% of the tax per month or fraction thereof for each month overdue, which shall be added to the amount of the tax due, and remitted in the same manner.~~

~~— D. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature or there exists a reasonable question of financial responsibility, of which the Finance Director shall be the judge, the report and remittance of the admission tax may be required 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.~~

~~— E. Every person liable for the collection and payment of the tax imposed by this chapter shall keep and preserve for a period of five years all unused tickets, ticket manifests, books and all other records from which can be determined the amount of admission tax which he was liable to remit under the provisions of this chapter, and all such tickets, books and records shall be open for examination and audit at all reasonable times by the Finance Director or his duly authorized agent.~~

Section 22. Repealer. Ordinance No. 1733 §5, as codified at TMC Section 3.20.050, “Application and Reporting,” is hereby repealed, thereby eliminating this section:

~~**3.20.050 — Application and Reporting**~~

~~— A. Any person conducting or operating any place for entrance to which an admission charge is made shall procure from the City an annual certificate of registration, the fee for which shall be \$1.00, and it shall be posted in a conspicuous place where tickets of admission are sold or the activity occurs. Annual renewals will be provided without a fee.~~

~~— B. The applicant for a certificate of registration shall furnish the Finance Director with the application, with the name and address of the owner, lessee or the custodian of the premises upon which the amusement is to be conducted; and such owner, lessee or custodian shall be notified of the issuance of such certificate and of his joint liability for collection and remittance of such tax.~~

~~— C. The Finance Director shall have the 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 herein levied; and a copy of the rules and regulations shall be on file and available for public examination in the City Clerk's office.~~

Section 23. TMC Section 3.26.090 Amended. Ordinance Nos. 2689 §12 and 2727 §2, as codified at TMC Section 3.26.090, “Exemptions,” **subparagraph A**, is hereby amended to read as follows:

3.26.090 Exemptions

A. 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 3.08 \(Gambling Activities Tax\)](#), TMC Chapter 3.50 (Utility Tax) or TMC Chapter ~~3.08 (Gambling Activities Tax)~~[3.51 \(Solid Waste Utility Tax\)](#), or to [public utility activities subject to a franchise fee under a franchise agreement with the City.](#)

Section 24. Chapter Title. Ordinance No. 2689, as codified at TMC Chapter 3.27, “Business and Occupation Tax Administrative Provisions,” is hereby amended to retitle the chapter as follows:

CHAPTER 3.27 BUSINESS AND OCCUPATION TAX ADMINISTRATIVE PROVISIONS

Sections:

- 3.27.010 Purpose
- 3.27.015 Application of Chapter Stated
- 3.27.020 Definitions
- 3.27.021 Definitions – References to Chapter 82.32 RCW
- 3.27.025 Registration/License Requirements
- 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

- 3.27.050 Payment Methods – Mailing Returns or Remittances – Time Extension – Deposits – Recording Payments – Payment Must Accompany Return – NSF Checks
- 3.27.060 Records to be Preserved – Examination – Estoppel to Question Assessment
- 3.27.070 Accounting Methods
- 3.27.080 Public Work Contracts – Payment of Fee and Tax Before Final Payment for Work
- 3.27.090 Underpayment of Tax, Interest, or Penalty – Interest
- 3.27.095 Time in Which Assessment May Be Made
- 3.27.100 Over Payment of Tax, Penalty, or Interest – Credit or Refund – Interest Rate – Statute of Limitations
- 3.27.110 Late Payment – Disregard of Written Instructions – Evasion – Penalties
- 3.27.120 Cancellation of Penalties
- 3.27.130 Taxpayer Quitting Business – Liability of Successor
- 3.27.140 Administrative Appeal
- 3.27.145 Judicial Review of Administrative Appeal Decision
- ~~3.27.150 Hardship Appeal Procedure~~
- 3.27.160 Stakeholder Involvement
- 3.27.170 Review and Reporting Provisions
- 3.27.180 Director to Make Rules
- 3.27.190 Ancillary Allocation Authority of Director
- 3.27.200 Mailing of Notices
- 3.27.210 Tax Declared Additional
- 3.27.220 Public Disclosure – Confidentiality – Information Sharing
- 3.27.230 Tax Constitutes Debt
- 3.27.240 Unlawful Actions – Violations – Penalties
- 3.27.245 Suspension or Revocation of Business License
- 3.27.250 Closing Agreement Provisions
- 3.27.255 Charge-Off of Uncollectible Taxes
- 3.27.260 Severability

Section 25. TMC Section 3.27.010 Amended. Ordinance No. 2689 §17, as codified at TMC Section 3.27.010, “Purpose,” is hereby amended to read as follows:

3.27.010 Purpose

The purpose of this Chapter is to provide ~~for the~~ administrative [guidelines and provisions to administer and enforce the City’s tax codes](#), ~~procedures for the Business and Occupation Tax as codified in TMC Chapter 3.26, setting administrative fees and prescribing penalties for noncompliance with the provisions of this chapter.~~

Section 26. TMC Section 3.27.015 Amended. Ordinance No. 2689 §18, as codified at TMC Section 3.27.015, “Application of Chapter Stated,” is hereby amended to read as follows:

3.27.015 Application of Chapter Stated

The provisions of this Chapter shall apply with respect to the taxes imposed under TMC Chapter [3.08 \(Gambling Activities Tax\)](#), TMC Chapter [3.20 \(Admissions Tax\)](#), TMC Chapter [3.26 \(Business and Occupation Tax\)](#), TMC Chapter [3.48 \(Commercial Parking Tax\)](#), TMC Chapter [3.50 \(Utility Tax\)](#), and TMC Chapter [3.51 \(Solid Waste Utility Tax\)](#), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

Section 27. Repealer. Ordinance No. 2689 §34, as codified at TMC Section 3.27.150, “Hardship Appeal Procedure,” is hereby repealed, thereby eliminating this section:

~~3.27.150—Hardship Appeal Procedure~~

~~—The Director shall develop a financial hardship appeal procedure by January 1, 2024.~~

Section 28. TMC Section 3.27.245 Amended. Ordinance No. 2727 §14, as codified at TMC Section 3.27.245, “Suspension or Revocation of Business License,” is hereby amended 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 [any tax imposed by any of the chapters within this title and administered by this chapter.](#) ~~and Chapter TMC 3.26 (business and occupation tax).~~ Such suspension or revocation shall follow the same procedure as provided in TMC [Chapter 5.04.110 and TMC 5.04.112.](#)

Section 29. Regulations Established. A new TMC Section 3.48.005 is hereby established to read as follows:

[3.48.005 General Administrative Provisions Apply](#)

[The administrative provisions contained in TMC Chapter 3.27 shall be fully applicable to the provisions of this chapter, except as expressly stated to the contrary herein.](#)

Section 30. TMC Section 3.48.010 Amended. Ordinance No. 2586 §3, as codified at TMC Section 3.48.010, “Definitions,” is hereby amended to read as follows:

3.48.010 Definitions

The following definitions shall apply throughout this chapter:

1. “*Commercial parking business*” means the ownership, lease, operation or management of a commercial parking lot in which fees are charged for [the act or privilege of parking motor vehicles.](#)

2. “*Commercial parking lot*” means [a covered or uncovered area with stalls for the purpose of parking motor vehicles.](#)

3. “Commercial parking” means any transaction or arrangement whereby a vehicle is parked and a fee is charged for parking or allowed the vehicle to be parked, irrespective of the length of time the vehicle is parked. Commercial parking shall include instances where a fee is charged specifically for the parking of a vehicle. ~~This shall include any business which uses part or all of its area to park vehicles for a fee where no other service, lodging or business is being provided or conducted in conjunction with the parking of the vehicle.~~ This shall include instances where a vehicle is parked or allowed to be parked, and a separate fee is charged in connection with other services. Commercial parking shall also include instances such as:

A. When a guest of a hotel, motel or other lodging establishment is allowed to park or leave his/her vehicle before or after his or her lodging or business stay there so that, for a fee, the guest’s vehicle is parked at the hotel, motel or other lodging establishment during days when the guest is no longer staying there. ~~Commercial parking shall also include instances such as~~

B. When a guest or visitor of a hotel, motel or other lodging establishment is allowed to park or leave his/her vehicle before, during, or after his or her lodging or business stay ~~there so that, for a fee, the guest’s vehicle is parked~~ at the hotel, motel or other lodging establishment ~~during days when the guest is no longer staying there.~~

C. Where a vehicle is parked or allowed to be parked, and where a fee would be charged for the parking unless validated by a business because a customer makes a purchase or otherwise transacts business for which a fee is paid.

4. “Parking tax” means the commercial parking tax imposed by this chapter.

Section 31. TMC Section 3.48.020 Amended. Ordinance No. 2586 §4, as codified at TMC Section 3.48.020, “Exemptions,” is hereby amended to read as follows:

3.48.020 Exemptions

The following exemptions to the commercial parking tax ~~are allowed~~apply:

1. **Local employee parking**, with parking spaces provided or reserved for use by an employee who works within the City, where the employee parks his or her vehicle in connection with his or her employment, without regard to whether arrangements or payment for the parking is made by the employee or by his or her employer.

2. **Apartments and condominiums**, where parking is provided in conjunction with arrangements for residential living spaces.

3. **Offices, retail establishments, warehouses and industrial buildings**, where parking is provided in association with tenant arrangements for the use of such facilities.

4. The tax shall not be levied on vehicles with official state disabled person decals, government vehicles that are exempt from tax, and tax-exempt carpool vehicles.

Section 32. TMC Section 3.48.030 Amended. Ordinance No. 2586 §5, as codified at TMC Section 3.48.030, “Local Option Transportation Tax Imposed,” is hereby amended to read as follows:

3.48.030 Local Option Transportation Tax Imposed

Pursuant to RCW 82.80.030, there is hereby levied a special local option transportation tax to be imposed on every person a tax for the act or privilege of parking a motor vehicle in a commercial parking lot within the City that is operated by a commercial parking business. The amount of parking tax shall be equal to the commercial parking fee multiplied by the parking tax rate in connection with commercial parking businesses within the City.

1. For commercial parking businesses operated by nonprofit organizations on City-owned property, the parking tax shall be imposed at the rate of five percent. % of the gross revenues generated by nonexempt commercial parking charges and fees.

2. For all other commercial parking businesses, the parking tax rate is shall be imposed at the rate of five percent. Effective January 1, 2019, the parking tax rate is imposed at eight percent. Effective January 1, 2020, the parking tax rate is imposed at 11 percent. Effective January 1, 2021, the parking tax rate is imposed at 15 percent. 8% of the gross revenues generated by non-exempt commercial parking charges and fees effective January 1, 2019, and then as follows:

~~January 1, 2020: 11% of the gross revenues generated by non-exempt commercial parking charges and fees~~

~~January 1, 2021: 15% of the gross revenues generated by non-exempt commercial parking charges and fees~~

Section 33. Repealer. Ordinance No. 2586 §6, as codified at TMC Section 3.48.040, “Tax in Addition to Other License Fees or Taxes,” is hereby repealed, thereby eliminating this section:

~~**3.48.040 Tax in Addition to Other License Fees or Taxes**~~

~~The tax levied under this chapter shall be in addition to any license fee or tax imposed or levied under any law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.~~

Section 34. Repealer. Ordinance No. 2586 §7, as codified at TMC Section 3.48.050, “Exempt Vehicles,” is hereby repealed, thereby eliminating this section:

~~**3.48.050 Exempt Vehicles**~~

~~The tax shall not be levied on vehicles with official State disabled person decals, government vehicles which are exempt from tax, and tax-exempt carpool vehicles.~~

Section 35. TMC Section 3.48.060 Amended. Ordinance No. 2586 §8, as codified at TMC Section 3.48.060, “Taxes Collected by Business Operators,” is hereby amended to read as follows:

3.48.060 Tax Payment and Collection~~ed by Business Operators~~

A. The taxes imposed by this chapter herein shall be collected by the operators of the commercial parking businesses, and shall be due and payable to the City in monthly installments, and remittance therefor, together with return forms as prescribed by the Director. The operators of the commercial parking businesses shall remit to the City the local option transportation taxes collected shall be made on or before the last day of the month following the end of the monthly period during which the taxes were collected. The City shall be authorized to review and inspect financial records involving activities of businesses which are taxable by this tax, at least quarterly each year.

B. The tax levied in this chapter shall be paid by the person paying the commercial parking charge and remitted by the person to whom the same is paid. The tax collected under this chapter shall be deemed held in trust by the person required to collect the same until the taxes are remitted to the Director under this section. Persons failing to collect the parking tax, or who collects the tax but fails to remit it to the Director, shall be liable to the City for the amount of such tax and associated penalties and/or interest due.

C. If the amount of parking tax is not separately stated from the commercial parking fee on all instruments evidencing the parking fee, a sign shall be posted in a conspicuous place on the entrance or where parking fees are advertised stating that a City parking tax of five percent is included in the parking fee. Except when the requirements of this subsection are satisfied, it shall be conclusively presumed that the commercial parking fee does not include the parking tax levied in this chapter.

Section 36. Regulations Repealed. Ordinance No. 2586 §9, as codified at TMC Section 3.48.070, “Late Penalty,” is hereby repealed, thereby eliminating this section:

~~3.48.070 — Late Penalty~~

~~— If a Commercial Parking Business subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the tax per month for each month overdue, which shall be added to the amount of the tax due.~~

Section 37. Repealer. Ordinance No. 2586 §13, as codified at TMC Section 3.48.110, “Appeal Procedures,” is hereby repealed, thereby eliminating this section:

~~3.48.110 — Appeal Procedure~~

~~— 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.~~

~~— B. The appellant, if aggrieved by the decision of the Finance Director or designee, may then appeal to the City Hearing Examiner within 20 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. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council.~~

~~— 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.~~

Section 38. Regulations Established. A new TMC Section 3.50.015 is hereby established to read as follows:

3.50.015 General Administrative Provisions Apply

The administrative provisions contained in TMC Chapter 3.27 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 39. TMC Section 3.50.030 Amended. Ordinance No. 1998 §3, as codified at TMC Section 3.50.030, "Definitions," is hereby amended to read as follows:

3.50.030 Definitions

The definitions contained in chapter 3.27 TMC shall have full force and application with respect to taxes imposed under the provisions of this chapter except as expressly stated to the contrary herein.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

1. “Cable television services” means the transmission of video programming and associated non-video signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

2. “Cellular telephone service” means any two-way voice and data telephone or similar communications system based in whole or in substantial part on wireless radio communications, including cellular mobile service, and which is not subject to regulation by the Washington State Utilities and Transportation Commission. Cellular mobile service includes other wireless radio communications services including specialized mobile radio, personal communications services, and any other evolving wireless radio communications technology that accomplishes a purpose substantially similar to cellular mobile service. Cellular telephone service is included within the definition of “telephone business” for the purposes of this chapter.

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

~~4. “Finance Director” means the Finance Director of the City of Tukwila, Washington, or his or her designee.~~

54. “Gross income” means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, 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), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

65. “Pager service” means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission. “Pager service” is included within the definition of “telephone business” for the purposes of this chapter.

~~7. “Person” means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this chapter.~~

86. 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. 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. “Telephone business” ~~means also includes~~ the ~~business of~~ providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, pager 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 cooperative or farmer line telephone companies or associations operating an exchange. 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. “Telephone business” does not include the providing of competitive telephone service, ~~or data processing,~~ cable television service, or other providing of broadcast services by radio or television stations.

Section 40. TMC Section 3.50.040 Amended. Ordinance No. 1998 §4, as codified at TMC Section 3.50.040, “Occupations Subject to Tax – Amount,” is hereby amended to read as follows:

3.50.040 Occupations Subject to Tax - Amount

There is levied upon, and shall be collected from a every person ~~because of engaged in~~ certain business activities ~~engaged in or carried on within~~ the City of Tukwila, taxes in the amount to be determined by the application of rates given against gross income as follows:

1. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting electric energy, a tax equal to 6 percent ~~4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond,~~ of the total gross income from such business in the City during the period for which the tax is due;

2. Upon a person engaged in or carrying on the business of selling, furnishing, or transmitting gas, whether natural or manufactured, a tax equal to 6 percent ~~4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond,~~ of the total gross income from such business in the City during the period for which the tax is due;

3. Upon a person engaged in or carrying on any telephone business a tax equal to 6 percent ~~4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond,~~ of the total gross income, including income from intrastate long distance toll service, from such business in the City during the period for which the tax is due;

4. Upon a person engaged in or carrying on the business of selling, furnishing or transmitting cable television service, a tax equal to 6 percent ~~4% for the calendar years 2003 and 2004; 5% for the calendar years 2005 and 2006; and 6% for the calendar years 2007 and beyond,~~ of the total gross income from such business in the City during the period for which the tax is due.

~~5. In addition to the automatic annual review of the Financial Planning Model, the City Council will review the need for scheduled rate changes for 2005 and again for 2007.~~

Section 41. TMC Section 3.50.060 Amended. Ordinance No. 1998 §6, as codified at TMC Section 3.50.060, "Exceptions and Deductions," is hereby amended to read as follows:

3.50.060 Exceptions and Deductions

In computing the tax levied in this chapter, there shall be deducted from the gross income the following items~~There is excepted and deducted from the total gross income upon which the tax is computed:~~

1. That part of the total gross income derived from business which the City is prohibited from taxing under the constitution or laws of the United States and the constitution or laws of the State of Washington.

2. ~~Income derived from that portion of network telephone service, as defined in RCW 82.04.065,~~ That portion of gross income derived by a taxpayer engaging in a telephone business which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services; or for access to, or charges for, interstate services; or charges for ~~network~~ telephone service that is purchased for the purpose of resale.

3. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

4. Cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

5. The amount of credit losses and uncollectible debts actually sustained by taxpayers whose regular books are kept upon an accrual basis. ~~Uncollectible debts written off the taxpayer's books during the tax year. If subsequently collected, the income shall be reported for the period in which collected.~~

Section 42. Regulations Established. A new TMC Section 3.50.065 is hereby established to read as follows:

3.50.065 Allocation of Income – Cellular Telephone Service

When determining total gross income from cellular telephone service in the City for purposes of Section 3.50.040(3), "gross income" shall include all income from cellular telephone service (including roaming charges incurred 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: (1) the customer's address shown on the telephone service company's records; or (2) 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 customers whose place of primary use is outside the City will not be taxable even though those cellular services are provided within the City.

There is a rebuttable presumption that the address shown on the cellular telephone service company's records is the place of primary use and is accurate. If the cellular telephone service company knows or should have known that a customer's place of primary use address for a telephone is within the City, then the gross income from cellular telephone service provided to that customer with respect to that telephone is to be included in the company's gross income.

Section 43. Repealer. Ordinance No. 1998 §5, §8, §9, §10, §11, §12, §13, and §14, as codified at TMC Sections 3.50.050; 3.50.080; 3.50.090; 3.50.100; 3.50.110; 3.50.120; 3.50.130; and 3.50.140 respectively, are hereby repealed, thereby eliminating these sections:

~~3.50.050 — Tax Year~~

~~—The tax year for purposes of this utility tax shall commence February 1, 2003 and end December 31, 2003, and thereafter shall commence on January 1 and end on December 31 each year.~~

~~3.50.080 — Taxpayer's Records~~

~~—Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his designee to verify information provided on any utility tax return, or to determine whether such return is required to be filed.~~

~~3.50.090 — Failure to Make Returns or to Pay the Tax in Full~~

~~—If a taxpayer fails, neglects, or refuses to make his return as and when required by this chapter, the Finance Director is authorized to determine the amount of the tax payable under provisions of TMC 3.50.040, and to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12% per year on the unpaid balance from the date any such taxes became due as provided in TMC 3.50.070.~~

~~3.50.100 — Penalty for Delinquent Payment~~

~~—If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the amount of such tax. Any tax due under this chapter that is unpaid and all penalties thereon~~

~~shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies.~~

~~3.50.110 — Overpayment of Tax~~

~~— Money paid to the City through error, or otherwise not in payment of the tax imposed by this chapter, or in excess of such tax, shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder, provided however, that overpayments extending beyond one year prior to notification of the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.~~

~~3.50.120 — Noncompliance – Penalty~~

~~— A. No person subject to this chapter shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in, or in connection with, any such tax return, or otherwise violate or refuse to comply with this chapter or with any rule promulgated pursuant to TMC 3.50.140.~~

~~— B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this chapter is a civil infraction, subject to a fine of up to \$250 for each day that a violation continues.~~

~~3.50.130 — Appeal~~

~~— A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the Finance Director or his designee, under the provisions of this chapter, may appeal such determination to the City of Tukwila’s City Administrator or his or her designee.~~

~~3.50.140 — Finance Director to Make Rules~~

~~— The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.~~

Section 44. Regulations Established. A new TMC Section 3.51.015 is hereby established to read as follows:

3.51.015 General Administrative Provisions Apply

The administrative provisions contained in TMC Chapter 3.27 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

Section 45. TMC Section 3.51.030 Amended. Ordinance No. 2250 §3, as codified at TMC Section 3.51.030, “Definitions,” is hereby amended to read as follows:

3.51.030 Definitions

The definitions contained in TMC chapter 3.27 shall have full force and application with respect to taxes imposed under the provisions of this chapter except as expressly stated to the contrary herein.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this chapter shall have the indicated meanings.

1. “Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, including but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction waste, abandoned vehicles or parts thereof, and recyclable materials.

2. “Solid waste collection business” means every person who receives solid waste or recyclable materials for transfer, storage, or disposal, including but not limited to, all collection services, public or private solid waste disposal sites, transfer stations, and similar operations.

~~3. “Person” means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this ordinance.~~

~~4. “Finance Director” means the Finance Director of the City of Tukwila, Washington, or his or her designee.~~

53. “Gross income” means the value proceeding or accruing from the performance of the particular business involved, including gross proceeds of sales, compensation for the rendition of services, and receipts (including all sums earned or charged, whether received or not) by reason of investment in the business engaged in (excluding rentals, 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), all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, interest or discount paid, delivery costs or any expenses whatsoever, and without any deduction on account of losses.

64. “Residential customers” means any customer of the solid waste collection provider for residential type customers of single-family residential structures, including mobile homes and duplexes, tri-plexes and four-plexes where each residential unit is billed individually, except that the term does not include multiple unit residences with five or more attached or unattached units billed collectively.

75. “Non-residential customers” means any customer other than those identified as a “residential customer.”

Section 46. Repealer. Ordinance No. 2250 §8, §9, §10, §11, §12, §13, and §14, as codified at TMC Sections 3.51.080; 3.51.090; 3.51.100, 3.51.110; 3.51.120, 3.51.130, and 3.51.140 respectively, are hereby repealed, thereby eliminating these sections:

~~3.51.080 — Taxpayer’s Records~~

~~— Each taxpayer shall keep records reflecting the amount of the taxpayer’s gross income on sales and services within the City, and such records shall be open at all reasonable times for the inspection of the Finance Director or his designee to verify information provided on any utility tax return, or to determine whether such return is required to be filed.~~

~~3.51.090~~ — Failure to Make Returns or to Pay the Tax in Full

~~— If a taxpayer fails, neglects, or refuses to make his return as and when required by this chapter, the Finance Director is authorized to determine the amount of the tax payable under provisions of TMC 3.51.040, and to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalties, are subject to an interest charge of 12% per year on the unpaid balance from the date any such taxes became due as provided in TMC 3.51.070.~~

~~3.51.100~~ — Penalty for Delinquent Payment

~~— If a person subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the amount of such tax. Any tax due under this chapter that is unpaid and all penalties thereon shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies. The City may, at its discretion, pursuant to Chapter 19.16 RCW, use a collection agency to collect such taxes, interest and penalties owed or assessed, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.~~

~~3.51.110~~ — Overpayment of Tax

~~— Money paid to the City through error, or otherwise not in payment of the tax imposed by this chapter, or in excess of such tax, shall, upon discovery, be credited against any tax due or to become due from such taxpayer hereunder, provided however, that overpayments extending beyond one year prior to notification of the City shall not be refunded. If such taxpayer has ceased doing business in the City, any such overpayment shall be refunded to the taxpayer.~~

~~3.51.120~~ — Noncompliance – Penalty

~~— A. No person subject to this chapter shall fail or refuse to file tax returns or to pay tax when due, nor shall any person make a false statement or representation in, or in connection with, any such tax return, or otherwise violate or refuse to comply with this chapter or with any rule promulgated pursuant to TMC 3.51.140.~~

~~— B. In addition to the interest and delinquent filing penalties set forth above, a willful violation of or failure to comply with this chapter is a civil infraction, subject to a cumulative fine of up to \$250 for each day that a violation continues. All penalties imposed under this chapter shall constitute a debt to the City. The city may, at its discretion, pursuant to Chapter 19.16 RCW, use a collection agency to collect taxes, interest, and penalties owed or assessed pursuant to this chapter, or the City may seek collection by court proceedings, which remedies shall be in addition to all other remedies.~~

~~3.51.130~~ — Appeal

~~— A taxpayer aggrieved by the amount of the tax, penalties, interest, or civil infraction fine determined to be due by the Finance Director or his or her designee under the provisions of this chapter may appeal such determination to the City of Tukwila's City~~

~~Administrator or his or her designee. Taxpayers shall be required to remit the amounts determined to be due under this chapter prior to filing an appeal.~~

~~**3.51.140 — Finance Director to Make Rules**~~

~~—The Finance Director shall have the power to adopt and enforce rules and regulations not inconsistent with this chapter or with the law for the purposes of carrying out the provisions thereof.~~

~~—If any amount of the tax, to be paid under the terms of this chapter, becomes due and remains unpaid, or if default is made in any of the sections herein contained, the license so issued shall be revoked.~~

Section 47. 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 48. 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 49. 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 July 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 _____, 2024.

ATTEST/AUTHENTICATED:

Andy Youn, CMC, City Clerk

Thomas McLeod, 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