

TITLE 5

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 5.04
LICENSES GENERALLY

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5.04.010 Definitions

For the purpose of this chapter, the following definitions shall apply:

1. "Business," means and includes all activities, occupations, trades, pursuits, or professions located or engaged within the City that involves the manufacturing or processing of materials of any type; the sale of goods, wares or merchandise; the rendition of services or the repair of goods, wares or merchandise for any consideration to the person engaging in the same or to any other person or class, directly or indirectly, whether or not an office or physical location for the business lies within the City limits.
2. "Department," means Finance Department.
3. "Director," means the Finance Director or his or her designee.
4. "Engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
 - a. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The

activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" as defined above. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

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

- (1) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.
- (2) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
- (3) Soliciting sales.
- (4) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
- (5) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
- (6) Installing, constructing, or supervising installation or construction of, real or tangible personal property.
- (7) Soliciting, negotiating, or approving franchise, license, or other similar agreements.
- (8) Collecting current or delinquent accounts.
- (9) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
- (10) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
- (11) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
- (12) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
- (13) Training or recruiting agents, representatives, independent contractors, brokers or others,

domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

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

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

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

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

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

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

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

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

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

(6) Conducting advertising through the mail.

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

d. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection 5.04.010(4)(c).

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

5. "License or licensee," as used generally in this chapter, means and includes respectively the words "permit" or "permittee" or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

6. "Nonprofit organization" includes individual person(s), partnerships, joint ventures, societies, associations, churches, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or any other person under either personal appointment or pursuant to law who qualifies under definition of and certification by the Internal Revenue Service as nonprofit.

7. "Person," means any individual, receiver, agent, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, company, joint stock company, business trust, corporation, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

8. "Person engaged in business" means the owner or one primarily beneficially interested in lawful business for profit and not employees.

9. "Home occupation" means any business conducted in a residence within the corporate city limits of Tukwila, such business being subject to the requirements set forth in TMC Chapter 18.06, "Definitions," in the section entitled "Home Occupation."

10. "Employee" means and includes each of the following persons who are not required by the City to have his/her/its own separate City of Tukwila business license:

a. Any person employed at any business who performs any part of their duties within the City of Tukwila or reports from a location within the City's corporate limits; and

b. Any person who is on the business's payroll, and includes all full-time, part-time, and temporary employees or workers; and

c. Owners, officers, managers, and partners; and

d. Any other person who performs work, services or labor at the business including, but not limited to, family members, regardless of whether they receive a wage from the business.

e. Self-employed persons, sole proprietors, owners, officers, managers, and partners; and

f. Any other person who performs work, services or labor at the business, including an independent contractor who may be exempt from requirements to have a separate City of Tukwila business license.

Employee is a unit of measure used to determine the Business License fee.

(Ord. 2588 §2, 2018; Ord. 2544, §2, 2017; Ord. 2496 §1, 2016; Ord. 2381 §1, 2012; Ord. 2356 §1, 2011; Ord. 2333 §1, 2011; Ord. 2315 §1 (part), 2010)

5.04.012 Purpose

The purpose of this chapter is to regulate and insure the legal conduct of businesses, assist in the effective administration of health, fire, building, zoning and other codes of the City, to impose fees for revenue purposes, and to provide a means for obtaining public information and compiling statistical information on existing and new businesses in the City.

(Ord. 2315 §1 (part), 2010)

5.04.015 Business License Required

A. No person or persons shall conduct, maintain, operate, or engage in any business within the City without first applying for and obtaining a business license, or renewing an existing license, and paying the fee(s) as prescribed herein, unless exempted in this chapter. All businesses operating or engaging in business within the City are required to submit a business license application or renewal, as appropriate, unless exempted in this chapter.

B. This license shall be in addition to any other licenses or permits required by any other section of this code or by State or Federal laws.

C. Business licenses are nontransferable and a separate business license shall be obtained for each location at which a business operates. Licenses shall be displayed at each business location so as to be viewable by the public.

(Ord. 2588 §3, 2018; Ord. 2381 §2, 2012; Ord. 2333 §2, 2011; Ord. 2315 §1 (part), 2010)

5.04.020 Applications and fees required

A. **Application Required.** Any person desiring to establish or conduct any business enterprise or undertaking within the corporate limits of the City shall first file a master application through the Washington State Department of Licensing Master License Service in coordination with the City of Tukwila Finance Department for a license to conduct such business. The application shall be upon a form furnished by the Washington State Department of Licensing Master License Service on which the applicant shall state the company name and address; the nature of the business activity or activities in which he/she desires to engage; the place where the business will be conducted; the number of employees, whether full or part-time, on the payroll as of January 1, or, if a new business, the number to be employed on the opening date; the Washington State Unified Business Identifier (UBI) number; and other information pertaining to the business as required by the City. The applicant shall be required to provide all information requested on said form and failure to do so shall be grounds for refusing to issue the business license. Owners of residential rental property are not subject to the application requirements in this chapter but shall adhere to the application requirements in TMC Chapter 5.06.

B. Fee – General.

1. The application must be accompanied by the appropriate application fee in accordance with the fee schedule adopted by resolution of the City Council, as well as the Master License Service handling fee. The license fee for the annual license (Business License fee) issued under this chapter shall be determined based on the total number of employees. The business license fee shall be determined by multiplying the appropriate Business License fee by the number of employees working at or reporting from a location within the City's corporate limits, in accordance with the fee schedule adopted by resolution of the City Council. In no event shall the Business License fee be less than the minimum fee set forth in this chapter. If the number of employees is not known at the time of application or renewal of the license, the business shall estimate the maximum number of employees they anticipate working any time during the 12-month period subject to licensure.

2. It will be the responsibility of the business to determine the total number of employees and, if required, demonstrate to the satisfaction of the Finance Director that the information pertaining to the Business License fee is accurate. Businesses without a full year of operating history shall estimate the number of employees that will be employed in a 12-month period.

C. **Minimum Fee.** There shall be an annual minimum fee for a Business License in accordance with the fee schedule adopted by resolution of the City Council.

1. For purposes of the license by this chapter, any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 and who does not maintain a place of business within the City, shall submit a business license registration to the Finance Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

2. Businesses doing business in the City that have no employees physically working within the City's corporate limits shall pay the minimum fee required under this chapter.

3. An entity subject to exemption pursuant to TMC Section 5.04.090 need not pay a Business License fee. An entity engaging in some activities or functions that are exempt from the Business License fee and some that are not exempt shall pay a Business License fee based on the number of employees involved in the functions or activities that are not exempt.

D. **New Businesses.** The Business License fee for a new business shall be based on the estimated number of employees that will work in Tukwila for a 12-month period. If, during the first license year for a new business, the City determines the actual number of employees is significantly different than the estimated number identified by the business owner, the amount of the Business License fee will be recalculated for the new business.

If the revised Business License fee is higher than the original Business License fee paid by the business owner for the first license year, the business owner must pay the difference to the City within 30 days after written notice of the amount owed is sent to the business owner by the City.

E. Over-reporting of Employees. In the event the business owner miscounted the number of employees by an error factor of more than 15% and paid an excess Business License fee as a result, a business may request that the City refund the overpayment. The request must be made in writing to the Finance Department, and the City must receive the request and all supporting documentation no later than 60 days after the end of the calendar year in which the error was made. If the City is satisfied the business owner paid an excess Business License fee, the City will refund the excess amount paid to the business owner.

F. Under-reporting of Employees. If, at the time of license renewal, the City determines the business owner under-reported the number of employees for the preceding year by an error factor of more than 15%, the business shall pay the balance of the corrected Business License fee (calculated as the difference between the paid Business License fee and the corrected Business License fee). The Finance Director shall mail written notice of the balance due to the business owner, and the business shall pay the balance due to the City within 30 days of the date the written notice is mailed by the City. A penalty of 20% of the balance due will be applied if payment is not received within 30 days.

G. Payment by Draft or Check. Payment made by draft or check shall not be deemed a payment of the Business License fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as a quittance or discharge of the Business License fee unless and until the check or draft is honored. Any person who submits a Business License fee payment by check to the Washington State Department of Licensing Master License Service or City, pursuant to the provisions of this chapter, shall be assessed an NSF fee set by the Finance Director if the check is returned unpaid by a bank or other financial institution for insufficient funds in the account or for any other reason.

(Ord. 2588 §4, 2018; Ord. 2544 §3, 2017; Ord. 2496 §2, 2016; Ord. 2381 §3, 2012; Ord. 2356 §2, 2011; Ord. 2333 §3, 2011; Ord. 2315 §1 (part), 2010)

5.04.030 Issuance of a license and annual renewal

A. Upon review and approval of the application, the Washington State Department of Licensing Master License Service or the Finance Director or designee shall issue a license to the applicant. The license shall grant to the applicant the privilege to conduct such business at a designated location in the City.

B. Persons continuing to engage in business within the City shall renew their business license(s) each year. Businesses must pay a renewal fee, as well as the Master License Service handling fee. The annual business license renewal fee shall be in accordance with the fee schedule adopted by resolution of the City Council. The annual fee may be prorated in order to conform the license expiration date with the expiration date established by the Master License Service. Persons not renewing their business license by the expiration date may be subject to a late renewal penalty charged by the Master License Service.

(Ord. 2588 §5, 2018; Ord. 2315 §1 (part), 2010)

5.04.040 Prorating fee

The license fee set forth in this chapter shall be for the calendar year, and each person engaged in business must pay the full license fee for the current year. License fees are non-refundable, regardless of whether the business operates for the entire calendar year, or whether the business license is denied, revoked, withdrawn or suspended with cause.

(Ord. 2356 §3, 2011; Ord. 2333 §4, 2011; Ord. 2315 §1 (part), 2010)

5.04.050 Late acquisition or renewal

A. **Penalty.** For new businesses, failure to pay the Business License fee by the first day of commencing business operations pursuant to TMC Section 5.04.020 will result in a late acquisition penalty in accordance with the fee schedule adopted by resolution of the City Council. For renewing businesses, failure to pay the Business License renewal fee by January 31st shall constitute delinquency and shall result in a penalty in accordance with the fee schedule adopted by resolution of the City Council. No business license and/or renewal for the current period shall be granted until all delinquent fees, together with penalties, have been paid in full. The Finance Director or his/her designee is authorized, but not obligated, to waive all or any portion of the penalties and interest provided herein in the event the Finance Director determines that the late payment was the result of excusable neglect or extreme hardship.

B. **Collection of Fees and Penalties.** Any license fee due and unpaid under this chapter, and all penalties thereon, shall constitute a debt to the City and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

C. **Revocation of License.** The Finance Director may revoke any business license issued pursuant to this chapter to any business or other person who is in default in payment of any

license fee hereunder, or who shall otherwise fail to comply with any of the provisions of this chapter. Notice of such revocation shall be issued pursuant to TMC Section 5.04.110.D. On and after the date of the notice of revocation, any business subject thereto that continues to engage in business shall be deemed to be operating without a license, and shall be subject to any and all penalties herein provided.

D. There shall be a penalty to reinstate any business license revoked through nonpayment of the Business License fee. The penalty shall be identified in the fee schedule adopted by resolution of the City Council.

(Ord. 2544 §4, 2017; Ord. 2496 §3, 2016; Ord. 2381 §4, 2012; Ord. 2356 §4, 2011; Ord. 2333 §5, 2011; Ord. 2315 §1 (part), 2010)

5.04.060 Transferability

The license granted in pursuance hereof shall be personal to the licensee and it shall not be assignable or transferable to any other person.

(Ord. 2315 §1 (part), 2010)

5.04.070 Change in UBI #, ownership, physical location or nature of business

The license granted pursuant hereto shall be used to conduct the particular business or type of business at the designated address for which such license is issued. Any license holder with a change in the nature of the business, a change in the Unified Business Identifier (UBI) issued by the Washington State Department of Licensing, a change in the physical location of the business, and/or a change in ownership of the business shall immediately submit a new application for licensure to the Finance Department documenting the relevant change(s). A change in the UBI or a change in ownership for the business will require payment of the applicable license fee set forth in the fee schedule adopted by resolution of the City Council, in addition to the submission of a new application.

(Ord. 2496 §4, 2016; Ord. 2381 §5, 2012; Ord. 2356 §5, 2011; Ord. 2333 §6, 2011; Ord. 2315 §1 (part), 2010)

5.04.080 Required – Display

It is unlawful for any person to engage in or carry on any business activity in the City without first procuring a license as provided in this chapter. The license shall thereafter be prominently displayed in the place of business of the applicant.

(Ord. 2315 §1 (part), 2010)

5.04.090 Exemption

A. **Exemptions.** The following entities may claim an exemption from the Business License fee, but if exempt under this subsection such entities shall still register under this chapter:

1. **Certain Organizations Exempt from Federal Income Tax.** An organization that files with the City a copy of its current IRS 501(c)(3) exemption determination letter issued by the Internal Revenue Service.

2. A governmental entity that engages solely in the exercise of governmental functions. Activities that are not exclusively governmental, such as some of the activities of a hospital or medical clinic, are not exempt under this chapter.

3. A nonprofit business operated exclusively for a religious purpose, upon furnishing proof to the Finance Director of its nonprofit status. For the purposes of this chapter, the activities that are not part of the core religious functions are not exempt.

4. A civic group, service club, or social organization that is not engaged in any profession, trade, or occupation, but is organized to provide civic, service, or social activities in the City.

a. Examples of such organizations include but are not limited to: Soroptomists, Kiwanis, Lions' Rotary, American Legion, children's and adults' athletic leagues and similar types of groups, clubs or organizations.

5. A court interpreter who provides an oral translation between speakers who speak different languages, and who is either a certified interpreter, qualified interpreter, or registered interpreter, and who makes less than \$12,000 in gross annual revenue in Tukwila, Washington. Certified, qualified and registered interpreters are defined as follows:

a. "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.

b. "Qualified interpreter" means a person who is readily able to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

c. "Registered interpreter" means an interpreter who is registered by the administrative office of the courts.

6. A public card room (also known as a social card room) with a house-banked license.

B. Nothing in this chapter shall be construed to require a license for any farmer, gardener, or other person to sell, deliver or peddle any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats or any farm produce or edibles raised, caught, produced or manufactured by such person in any place within the State.

(Ord. 2593 §2, 2018; Ord. 2588 §6, 2018; Ord. 2544 §5, 2017; Ord. 2356 §6, 2011; Ord. 2333 §7, 2011; Ord. 2315 §1 (part), 2010)

5.04.100 Failure to Pay Fee

If any person engaged in business fails or refuses to pay the license fee for any year as herein provided, they shall not be granted a license for the current year until such delinquent license fees in accordance with the fee schedule adopted by resolution of the City Council have been paid, in addition to the current years' required fee(s). Such fees may be collected by the City by proper legal action brought for that purpose if any person engaged in business fails or refuses to pay the license fee. This remedy is cumulative and not exclusive.

(Ord. 2588 §7, 2018; Ord. 2315 §1 (part), 2010)

5.04.105 Additional Requirements for Issuance of Business License

A. A business license will only be issued provided the building, structure, operation or location of the business for which the license is sought complies with the requirements or standards of the Tukwila Municipal Code.

B. In any case where an applicant seeks a business license for a business to be located in a building or structure for which a building or land use permit is required to operate the business as proposed, whether as a newly constructed building or structure or a remodeled building or structure, the permit process, including final inspections/issuance of occupancy permits, shall be completed prior to issuance of a business license.

C. In any case where an applicant seeks a business license for a business to be located in a building or structure for which no building or land use permit is required to operate the business as proposed, the building department may require the business premises to be inspected for compliance with life and safety codes. If the inspection reveals outstanding code violations, the business license will not be issued until all life and safety code violations are resolved.

(Ord. 2588 §8, 2018; Ord. 2315 §1 (part), 2010)

5.04.110 Denial, Suspension, Revocation

A. The Finance Director may deny any business license application pursuant to TMC Section 5.04.105.

B. The Finance Director may deny, suspend or revoke any license under this chapter where one or more of the following conditions exist:

1. The licensee is in default of any fee, charges or amounts due and payable to the City of Tukwila, as outlined in the Tukwila Municipal Code or City policy.

2. The license was procured by fraud or by a false or misleading representation of fact in the application, or in any report or record required to be filed with the Finance Department.

3. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of the Tukwila Municipal Code.

4. The license holder, his or her employee, agent, partner, director, officer or manager has knowingly violated any provisions of any chapter of the Tukwila Municipal Code, or has knowingly permitted, failed to prevent, or has otherwise allowed a violation of any of the provisions of any chapter of the Tukwila Municipal Code to occur on his or her business premises.

5. The license holder, his or her employee, agent, partner, director, officer or manager has repeatedly violated any provision of City policies or the Tukwila Municipal Code after having received notice of such violation.

6. Conduct of the business would be in violation of any local, state or federal law, rule or regulation prohibiting the conduct of that type of business.

7. The property at which the business is located has been determined by a court to be a chronic nuisance property, a Violation Notice and Order for a chronic nuisance property has been issued and not timely remedied or appealed, or the Hearing Examiner has determined the property to be a chronic nuisance property, as provided in TMC Chapter 8.27.

C. Upon determination that grounds for denial, suspension or revocation of a license exist, the Finance Director shall send the applicant or license holder a Notice of Denial, Suspension or Revocation. The Notice of Denial, Suspension or Revocation shall set forth the grounds for and terms of the denial, suspension or revocation, and a statement advising the applicant or license holder that he/she may appeal the Notice of Denial, Suspension or Revocation in accordance with the provisions of TMC Section 5.04.112. The filing of such appeal shall stay the action of the Finance Director pending decision on the appeal by the City Hearing Examiner or other hearing body pursuant to TMC Section 5.04.112.

D. **Receipt of the Notice of Denial, Suspension or Revocation.** The Notice of Denial, Suspension or Revocation shall be: (1) sent to the applicant or license holder by registered mail at the address provided on the license application; (2) hand delivered to the address provided on the license application; or (3) posted upon the premises where such applicant or license holder conducts the business that is the subject of the denied, suspended or revoked license. Notice shall be deemed received by the applicant or license holder upon posting, hand delivery, or 3 business days after mailing, whichever occurs first.

(Ord. 2588 §9, 2018; Ord. 2496 §5, 2016; Ord. 2352 §2, 2011; Ord. 2333 §8, 2011; Ord. 2315 §1 (part), 2010)

5.04.112 Appeal of Notice of Denial, Suspension or Revocation

A. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a business license by filing a written notice of appeal to the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. 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 will be mailed to the applicant or licensee.

C. 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.

D. 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.

(Ord. 2496 §6, 2016; Ord. 2381 §6, 2012; Ord. 2333 §9, 2011; Ord. 2315 §1 (part), 2010)

5.04.115 Penalties

Any violation of this chapter, or failure to comply with any of the requirements of this chapter, shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

(Ord. 2549 §2, 2017; Ord. 2315 §1 (part), 2010)

5.04.116 Effect of Denial or Revocation

No person or business may reapply for a business license merely by renaming the business. The denial or revocation of a license applies to any business entity, regardless of its name, that is operating under the same ownership and/or management and engages in substantially the same type of business enterprise as that of a business that has been previously denied a license or has had its license revoked under this chapter within a year of such application for a license.

(Ord. 2315 §1 (part), 2010)

5.04.120 Regulation adoption and publication – Failure to comply

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

(Ord. 2315 §1 (part), 2010)

5.04.130 Disclaimer of City Liability

The City of Tukwila expressly finds and requires that responsibility for compliance with the provisions of this chapter rests with license applicants and their agents and that no action, inaction, or omission of the City or any of its agents or employees shall serve to assume or shift responsibility for compliance with the provisions of this chapter to any other party, including the City. Furthermore, issuance of a license pursuant to this chapter does not constitute the creation of a duty by the City to indemnify the licensee for any wrongful acts against the public, or to guarantee the quality of goods, services or expertise of a licensee. The issuance of a license does not shift responsibility from the licensee to the City for proper training, conduct or equipment of the licensee or their agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection.

(Ord. 2588 §10, 2018)

CHAPTER 5.06

RESIDENTIAL RENTAL BUSINESS LICENSE AND INSPECTION PROGRAM

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- 5.06.210 Appeal
- 5.06.220 Annual Review and Report
- 5.06.230 Immediate Health and Safety Threats
- 5.06.240 No Warranty by City

5.06.010 Purpose

The City Council finds that the establishment of a Residential Rental Business License and Inspection Program for rental units is necessary to protect the public health, safety and welfare by ensuring the proper maintenance of such housing, by identifying and requiring correction of substandard housing conditions, and by preventing conditions of deterioration and blight that could adversely impact the quality of life in the City of Tukwila.

(Ord. 2281 §1 (part), 2010)

5.06.020 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.

1. “*Accessory dwelling unit*” or “*ADU*” means a unit that meets the requirements of Table 18-6, Note 17, of TMC Title 18.

2. “*Applicable laws*” include, but are not limited to, the City’s housing code, the City zoning ordinance and other City ordinances, and other laws or regulations relating to the health and safety of City residents or the general public.

3. “*Certificate of Compliance*” means the certificate issued by the City evidencing compliance with the requirements of this chapter. A Certificate of Compliance is required before a unit can be rented.

4. “*Code official*” means the Department of Community Development Director or his/her designee.

5. “*City*” means the City of Tukwila, Washington.

6. “*Deficiency*” means any failure by a rental unit to comply with applicable laws.

7. “*Department*” means the City of Tukwila Department of Community Development.

8. “*Inspection Checklist*” means the document submitted to the City as the result of an inspection conducted by an inspector which shows the true condition of the unit. An Inspection Checklist must be signed and dated by the inspector.

9. “*Inspector*” means:

- a. A City building code inspector;
- b. A City code enforcement officer;
- c. A private inspector, approved by the City upon evidence of at least one of the following credentials: A.A.C.E. Property Maintenance and Housing Inspector certification, I.C.C. Property Maintenance and Housing Inspector certification, or I.C.C. Residential Building Code Inspector;
- d. A Washington State licensed architect; or
- e. A Washington State licensed home inspector.

10. “*Non-City inspector*” means any inspector meeting the criteria in Section 5.06.020 who is not a City code official.

11. “*Occupant*” means an individual, partnership, corporation or association, or agent of any of them lawfully residing in a unit.

12. “*Owner*” means the owner of record as shown on the last King County tax assessment roll or such owner’s authorized agent.

13. “*Rental inspection deficiency point system*” means the point system used by inspectors to evaluate whether a rental unit is in compliance with the requirements of this chapter.

14. “*Rental unit*” means a unit occupied or leased by a tenant.

15. “*Single-family residence*” means a building, modular home, or new manufactured home designed to contain no more than one dwelling unit, plus one accessory dwelling unit.

16. “*Tenant*” means any adult person granted temporary use of a rental unit pursuant to a lease or rental agreement with the owner of the rental unit.

17. "Unit" means any structure or part of a structure, which is used as a home, residence or sleeping place by one or more persons, including but not limited to, single-family residences, duplexes, tri-plexes, four-plexes, multi-family dwellings, apartment buildings, condominiums, mobile homes and similar living accommodations.

18. "Unit unavailable for rent" means a unit whose owner has filed with the code official a statement signed under penalty of perjury that such unit is not offered or available for rent as a rental unit and that prior to offering or making the unit available as a rental unit, the owner will apply for a Residential Rental Business License and comply with any applicable administrative regulations adopted pursuant to this chapter.

(Ord. 2519 §1, 2016; Ord. 2459 §1, 2014;
Ord. 2281 §1 (part), 2010)

5.06.030 Scope

The provisions of this chapter shall apply to all rental units, with the exception of:

1. Owner-occupied rental units;
2. Units unavailable for rent;
3. Housing accommodations in hotels, motels, inns or tourist homes;
4. Housing accommodations in retirement or nursing homes;
5. Housing accommodations in any hospital, State-licensed community care facility, convent, monastery or other facility occupied exclusively by members of a religious order or an extended medical care facility;
6. Housing accommodations that a government unit, agency or authority owns, operates or manages, or which are specifically exempted from municipal regulation by State or federal law or administrative regulation. This exception shall not apply once the governmental ownership, operation or management regulation is discontinued.

(Ord. 2281 §1 (part), 2010)

5.06.040 Residential Rental Business License Requirement

A. Every rental unit owner shall obtain an annual residential rental business license, pursuant to Title 5 of the Tukwila Municipal Code, prior to operating, leasing or causing to be leased a rental unit. Rental unit owners must file a written application annually with the Department for each rental location to be leased. To be considered for approval, residential rental business license applications must be complete and include:

1. Completed and signed Residential Rental Business License Application provided by the City.

2. Appropriate application fee as set forth in the fee schedule adopted by resolution of the City Council. Late fees will be due for applications filed March 1st or later.

3. For multi-family buildings with 2 or more units, documentation of an ongoing integrated pest management (IPM) program. This could be provided by a property manager trained in IPM or a contract with a pest control company.

B. Failure to obtain a residential rental business license will result in the inability to rent the unit.

(Ord. 2519 §2, 2016; Ord. 2281 §1 (part), 2010)

5.06.050 Inspection Required

A. The property owner is responsible for obtaining an inspection of each rental unit and submitting the Inspection Checklist to the code official no later than September 30 of the year the Certificate of Compliance expires.

B. When a unit changes from owner occupancy to a rental, the inspection must occur before the unit is occupied by the tenant. An inspection is not required the year a Certificate of Occupancy is issued for a newly-constructed building, and thereafter the building will be inspected according to the quadrant in which it is located.

C. Owners of complexes with 5 or more units are required to utilize a non-City inspector. Owners of rental properties with fewer than 5 units may utilize a City inspector or a non-City inspector. Non-City inspectors must meet the qualifications defined herein, be preapproved by the City, and may not have a financial interest in the property. The City shall provide the Inspection Checklist to the owner with the application form.

D. The code official shall issue a Certificate of Compliance for rental units that comply with applicable laws based on a submitted Inspection Checklist. If using a non-City inspector, the owner shall be responsible for making the inspection arrangements with the non-City inspector.

E. The code official shall audit Inspection Checklists submitted by private inspectors and based on audit results may reinspect units on that property or inspected by that inspector.

F. Submittal of an Inspection Checklist that the owner knows or should have known is false may result in revocation of the residential rental business license and penalties defined in TMC Section 5.06.200.

G. An Inspector may be removed from the City's approved list for reasons including, but not limited to:

1. Submittal of an Inspection Checklist that the inspector knows or should have known is false.
2. Conviction for any crime that occurs in connection with an inspection.
3. Failure to hold a valid Tukwila business license.

(Ord. 2600 §1, 2018; Ord. 2519 §3, 2016;
Ord. 2459 §2, 2014; Ord. 2281 §1 (part), 2010)

5.06.060 Inspection Consent

Owners shall make every effort to make units available for inspection pursuant to this chapter. If the owner fails to arrange for a non-City inspector and/or the owner or occupants do not consent to City entry for inspection, the code official may not force or otherwise attempt to gain entry except in accordance with a court warrant authorizing entry for the purpose of inspection.

(Ord. 2281 §1 (part), 2010)

5.06.070 Rental Inspection Deficiency Point System

A. The code official shall prepare and shall keep on file for public inspection the rental inspection deficiency point system used in the point calculation procedure set forth herein. The code official shall assign points according to the severity of each code violation on a scale of 1 to 25. Except when otherwise provided by State law, conditions in the design or structure of a building such as, but not limited to, the size and dimension of rooms and windows and the electrical and plumbing systems that were legal under existing codes when built, shall not be violations as long as they are maintained in good repair. A violation noted during the inspection shall receive the assigned point value.

B. A rental unit shall be considered unfit for occupancy if it fails an inspection by 25 points or more.

(Ord. 2281 §1 (part), 2010)

5.06.080 Inspection Checklist

As a condition of the issuance of a residential rental business license, the owner shall provide a completed Inspection Checklist signed by the inspector showing the current condition of the rental unit. The code official shall issue a Certificate of Compliance upon receipt of the inspection results indicating compliance with the applicable laws pursuant to this chapter.

(Ord. 2459 §3, 2014; Ord. 2281 §1 (part), 2010)

5.06.090 Deficiencies

Items to be inspected are weighted according to a point system established by the City. Accrual of 25 points or more for deficiencies constitutes a failure of the inspection and requires correction. The inspector shall provide the owner and the City written notice of each deficiency disclosed by inspection. A Certificate of Compliance shall not be issued until the Inspection Checklist indicates a score of less than 25 points. Repairs required to bring the unit into compliance are the responsibility of the owner. Rental units shall be subject to re-inspections pursuant to TMC Section 5.06.110.

(Ord. 2459 §4, 2014; Ord. 2281 §1 (part), 2010)

5.06.100 Violations

If an inspection of a rental unit conducted pursuant to this chapter reveals deficiencies of 25 points or more on the Inspection Checklist, the violation must be cured within 30 days. If upon re-inspection, the unit reveals deficiencies of 25 points or more, the City's code official may seek any remedies

permitted by law including, but not limited to, denial or revocation of a residential rental business license for that unit pursuant to Title 5 of the Tukwila Municipal Code, and abatement proceedings pursuant to Chapter 8.45 of the Tukwila Municipal Code. The City may seek legal or equitable relief to enjoin any act or practice that constitutes or will constitute a violation of any regulation under this chapter.

(Ord. 2459 §5, 2014; Ord. 2281 §1 (part), 2010)

5.06.110 Re-inspections

A rental unit that exhibits deficiencies of 25 points or more on the Inspection Checklist shall be subject to a re-inspection and re-inspection fee as set forth in the City's fee schedule adopted pursuant to this chapter.

(Ord. 2459 §6, 2014; Ord. 2281 §1 (part), 2010)

5.06.120 Notice of Non-Issuance of Certificate of Compliance

If, upon re-inspection, the inspector determines a rental unit is unfit for occupancy by failing an inspection by 25 points or more, the City shall provide the owner with written notice of non-issuance of Certificate of Compliance. Such notice shall specify the date of the non-issuance determination, the rental unit address, the name of the owner, the name of the inspector and the specific reasons for the non-issuance determination. Failure to obtain a Certificate of Compliance will result in the non-issuance or revocation of the rental business license for that unit. The unit shall be posted Unfit for Occupancy. Tenants, if any, shall be required to vacate. Relocation Assistance pursuant to TMC 8.46 may apply.

(Ord. 2281 §1 (part), 2010)

5.06.130 Contents of Certificate of Compliance

Certificate of Compliance shall specify the date of issuance, the rental unit address, the name of the owner to whom the certificate is issued, the expiration date of the Certificate, and an indication the rental unit complies with applicable laws as far as could be determined by inspection.

(Ord. 2459 §7, 2014; Ord. 2281 §1 (part), 2010)

5.06.140 Certificate of Compliance Validity and Renewal

Certificates of Compliance expire on December 31, four years from the date of issuance by the City. Failure to renew the Certificate of Compliance every four years shall result in the non-issuance or revocation of the rental business license for that unit. Rental properties that are registered and continue to meet all the requirements of the City's Crime-Free Rental Housing Program, or other City-administered program to certify rental properties as working proactively at crime prevention, may extend their required rental inspection schedule to once every 8 years. If participation in such program is terminated due to failure to meet program requirements or for any other reason, the rental inspection shall be due at the end of the calendar year of the year of termination or 4 years from the last inspection, whichever is later. Furthermore, if a property registered in the Crime-Free Rental Housing Program, or any other City-

administered program to certify rental properties as working proactively at crime prevention, is the subject of 3 or more code violation complaints verified by the City in any 6-month period for violations affecting the habitability of a residential unit, the property will revert to a 4-year inspection cycle.

*(Ord. 2519 §4, 2016; Ord. 2459 §8, 2014;
Ord. 2281 §1 (part), 2010)*

5.06.150 Notice

All notices issued pursuant to this chapter shall provide the address and phone number where additional information concerning the inspection may be obtained. Notice to the owner and occupants shall be mailed by first-class mail to the owner's last known address as it appears in the records of the county assessor or other address provided by the owner.

(Ord. 2459 §9, 2014; Ord. 2281 §1 (part), 2010)

5.06.160 Authority

The code official shall be responsible for enforcement and administration of this ordinance.

(Ord. 2281 §1 (part), 2010)

5.06.170 Administrative Regulations

The code official is authorized and directed to promulgate administrative regulations pertaining to the implementation of this chapter.

(Ord. 2281 §1 (part), 2010)

5.06.180 Complaint-Based Inspections

Nothing contained herein shall prevent or restrict the authority of the City's code official to inspect any unit or premises thereof in response to a complaint alleging code violations or other violations of law at such unit and to pursue all code enforcement remedies available under this code or other laws following such a complaint-based inspection of a unit.

(Ord. 2281 §1 (part), 2010)

5.06.190 Voluntary Inspection Requests

Nothing in this chapter shall be construed to prohibit an owner from voluntarily requesting an inspection to determine whether a rental unit complies with applicable laws, even though such inspection may not be required pursuant to this chapter. Such voluntary inspection requests shall be subject to all of the provisions of this chapter including, but not limited to, the provisions governing applications and fees.

(Ord. 2281 §1 (part), 2010)

5.06.200 Penalties

A. Violations of the provisions of this chapter shall be subject to enforcement and penalties as prescribed in TMC Chapter 8.45 and the issuance of a Notice of Violation in accordance with TMC Section 8.45.070.

B. Any violation of this chapter that constitutes an immediate health or safety threat shall constitute a public nuisance.

C. In addition to penalties, the City shall not issue or shall revoke the unit's business license and require that the unit be vacated until the unit is brought into compliance.

(Ord. 2549 §3, 2017; Ord. 2281 §1 (part), 2010)

5.06.210 Appeal

A. The owner may appeal the non-issuance of a Certificate of Compliance by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the notice of non-issuance. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. The hearing shall be conducted no later than 30 business 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the owner.

C. 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.

D. 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 or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §7, 2016; Ord. 2281 §1 (part), 2010)

5.06.220 Annual Review and Report

The code official shall conduct an annual review of the Residential Rental Business License and Inspection Program and shall submit an annual report of the program's effectiveness to the City Council.

(Ord. 2281 §1 (part), 2010)

5.06.230 Immediate Health and Safety Threats

Nothing in this ordinance shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat.

(Ord. 2281 §1 (part), 2010)

5.06.240 No Warranty by City

By enacting and undertaking to enforce this program, the City, City Council, its agents and employees do not warrant or guarantee the safety, fitness or suitability of any dwelling in the City or any unit inspected under this program. Owners and occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

(Ord. 2281 §1 (part), 2010)

CHAPTER 5.08
CABARETS

Sections:

- 5.08.010 Definitions
- 5.08.020 Chapter exemption
- 5.08.030 Cabaret license required – Fee
- 5.08.040 Licenses - Restrictions
- 5.08.050 License application procedure
- 5.08.055 Licenses – Subject to State Liquor and Cannabis Board Rule
- 5.08.060 Grounds for denial of application
- 5.08.070 Revocation or suspension of licenses
- 5.08.080 Appeals and hearing
- 5.08.090 Minors – Employment
- 5.08.100 License posting
- 5.08.110 Hours of operation – Penalty for violation
- 5.08.120 Complaint investigation

5.08.010 Definitions

When used in this chapter and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out in this section:

1. “Cabaret” means any room, place or space whatsoever in the City in which any music, singing, dancing or other similar entertainment is permitted in connection with any hotel, restaurant, café, club, tavern, or eating place selling, serving, or providing the public, with or without charge, food and/or liquor. The words “music” and “entertainment” as used in this chapter shall not apply to radios, televisions, juke boxes or similar mechanical or technical devices.
2. “Persons” means any individual, firm, corporation, company, partnership, marital community, association, an unincorporated association, any person acting in a fiduciary capacity, or other entity or group of persons however organized.
3. “Liquor” shall have the definition set forth in RCW 66.04.010.

(Ord. 2496 §8, 2016; Ord. 1586 §2 (part), 1990)

5.08.020 Chapter exemption

This chapter shall not apply to any person conducting or engaging in a business providing entertainment or amusement where any admission or similar charges therefor are to be used exclusively for charitable, eleemosynary, educational or religious purposes.

(Ord. 1586 §2 (part), 1990)

5.08.030 Cabaret license required – Fee

It is unlawful to conduct, open up, operate or maintain any cabaret as defined in TMC Section 5.08.010 within the City without a valid license to do so to be known as the “cabaret license.” The cabaret license fee shall be paid annually, in accordance with the fee schedule adopted by resolution of the City Council. Each such license shall be non-assignable and nontransferable, and the fee paid shall be nonrefundable.

(Ord. 2496 §9, 2016; Ord. 2355 §1, 2011; Ord. 1586 §2 (part), 1990)

5.08.040 Licenses - Restrictions

A. No “cabaret license” shall be issued to:

1. A natural person who has not attained the age of 21 years, except that licenses may be issued to persons who have attained the age of 18 with respect to cabarets where no intoxicating liquors are served or provided.

2. A person who has been convicted of or forfeited bail for any of the following within three years prior to filing the application.

a. A felony which is reasonably related to a person’s fitness or ability to conduct, manage or operate a cabaret.

b. A violation of any federal or state law or city ordinance concerning the manufacture, possession, or sale of liquor.

c. A violation of any federal or state law or city ordinance concerning the manufacture, possession or sale of narcotics.

3. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required by the licensee.

4. A partnership, unless all members of the partnership are qualified to obtain a license under this chapter.

5. A corporation, unless all of its officers, directors and stockholders are qualified to obtain a license under this chapter.

(Ord. 2496 §10, 2016; Ord. 2355 §2, 2011; Ord. 1648 §1, 1992; Ord. 1586 §2 (part), 1990)

5.08.050 License application procedure

A. **Cabaret License.** An applicant for a cabaret license shall make application therefor on the application forms provided by the Finance Director. Each such application form shall require the following information:

1. The name, home address, home telephone number, date and place of birth, and social security number of the applicant, if the applicant is an individual;
2. The names, home addresses, home telephone numbers, dates and places of birth, and social security numbers of the officers and directors of the applicant, if the applicant is a partnership. If the applicant is any other type of business entity, then the applicant shall provide the same information requested in this subsection for all managers or other persons who control the business decisions of that entity;
3. The name, address, and telephone number of the cabaret, and the names of all on-site managers of the cabaret; and
4. The name, address and telephone number of the owner of the property on which the cabaret is located.

Each application must be completed in full and signed by the applicant in affidavit or declaration form wherein the applicant certifies under penalty of perjury that the applicant has personal knowledge of all matters asserted in said application and that the statements contained therein are true and complete.

B. **Duty to Supplement Application.** In the event that any information on any application for a license under this chapter becomes outdated or otherwise inaccurate, an applicant or license holder shall promptly notify the Finance Director in writing and provide current information.

C. **All Completed Applications.** A completed application shall be submitted to the Finance Director. An application shall not be considered to be completed unless accompanied by a receipt or other notation from the City showing payment of the required license fee, in accordance with the fee schedule adopted by the City Council. The Finance Director shall refer a completed application to the following City department heads for investigation and report as follows:

1. The Chief of Police shall provide a criminal history record of the applicant;
2. The Director of the Department of Community Development shall provide a report stating whether or not the application or premises of the business reflect any actual or potential violations of the City zoning code; and
3. The Building Official shall provide a report indicating whether or not said premises are in compliance with all applicable health, safety and building statutes and regulations.

(Ord. 2496 §11, 2016; Ord. 2355 §3, 2011; Ord. 1586 §2 (part), 1990)

5.08.055 Licenses – Subject to State Liquor and Cannabis Board Rules

Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor and Cannabis Board relating to the sale of intoxicating liquor.

(Ord. 2496 §12, 2016)

5.08.060 Grounds for denial of application

Upon receipt of a completed application and reports from the above-named officials, a license application shall be approved, except that said application shall be denied for any one or more of the following reasons:

1. Application form is incomplete; or
2. Purpose of business sought to be licensed does not comply with the requirements of any City ordinance(s) relating to fire, buildings, health and sanitation or is, or will be if licensed, in violation of the City zoning code as determined by the reports from the above-named officials; or
3. The license was procured by fraud or any false statement or misrepresentation of fact in the application or in any report or record filed with the Finance Director. In all events, the Finance Director shall issue the license, or his/her reasons(s) for non-issuance as soon as possible, but in no event more than 30 days after receipt of a completed application.

(Ord. 2355 §4, 2011; Ord. 1586 §2 (part), 1990)

5.08.070 Revocation or suspension of licenses

A. The Finance Director may revoke any license under this chapter, or may suspend any such license for a period of time not to exceed one year, where one or more of the following conditions exist:

1. The license was procured by fraud or by any false statement or misrepresentation of fact in the application or in any report or record required to be filed with the Finance Director;
2. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of this code; or
3. The license holder, his or her employee, agent, partner, director, officer or manager has violated or permitted violation of any of the provisions of this chapter.

B. Upon determination that grounds for revocation or suspension of a license exist, the Finance Director shall send by first class mail, postage prepaid, to the license holder a notice of revocation or suspension. The notice shall set forth the grounds for revocation or suspension.

(Ord. 2355 §5, 2011; Ord. 1586 §2 (part), 1990)

5.08.080 Appeals and hearing

A. **Receipt of the Notice of Denial, Suspension or Revocation.** The Notice of Denial, Suspension or Revocation shall be: (1) sent to the applicant or license holder by registered mail at the address provided on the license application; (2) hand delivered to the address provided on the license application; or (3) posted upon the premises where such applicant or license holder conducts the business that is the subject of the denied, suspended or revoked license. Notice shall be deemed received by the applicant or license holder upon posting, hand delivery, or 3 business days after mailing, whichever occurs first.

B. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a cabaret license by filing a written notice of appeal to the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was 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. A timely notice of appeal shall stay the effect of the notice of suspension, non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

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 or other hearing body. 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

D. The hearing shall be de novo. The decision of the City 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 or other hearing body shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2496 §13, 2016; Ord. 2381 §7, 2012; Ord. 2355 §6, 2011; Ord. 1796 §3 (part), 1997; Ord. 1586 §2 (part), 1990)

5.08.090 Minors – Employment

The following statutes, regulation, and amendments thereto, are adopted and incorporated by references herein:

RCW	66.44.010
	66.44.316
	66.44.340
	66.44.350
WAC	314-16-070
	314-16-075

(Ord. 1586 §2 (part), 1990)

5.08.100 License posting

All licenses issued hereunder shall be posted in a conspicuous place in the establishment of the licensee.

(Ord. 1586 §2 (part), 1990)

5.08.110 Hours of operation – Penalty for violation

A. It is unlawful for the owner, proprietor or person in charge of a cabaret to maintain or permit any dancing or music on the premises of the cabaret between the hours of 2:00 AM and 6:00 AM.

B. Any person violating this section, or any section of this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00, or imprisonment not exceeding 90 days, or by both such fine and imprisonment. A separate offense shall be deemed committed upon each day on which a violation occurs.

(Ord. 1586 §2 (part), 1990)

5.08.120 Complaint investigation

The Chief of Police or his duly authorized representative shall promptly investigate all complaints against any establishment, operator or manager holding a cabaret license.

(Ord. 1586 §2 (part), 1990)

**CHAPTER 5.10
ADULT CABARETS**

Sections:

- 5.10.010 Purpose
- 5.10.020 Definitions
- 5.10.030 Adult Cabaret Licenses, Fees, Terms, Assignments and Renewals
- 5.10.040 Manager’s Licenses and Entertainer’s Licenses, Fees, Terms, Assignments and Renewals
- 5.10.050 License Applications
- 5.10.060 Issuance of Licenses and Renewals
- 5.10.070 Lewd Performance
- 5.10.080 Premises Configuration Requirements
- 5.10.090 Revocation or Suspension of Licenses
- 5.10.100 Appeals
- 5.10.110 Violation
- 5.10.120 Civil Remedies – Abatement
- 5.10.130 Other Remedies
- 5.10.140 Compliance With Other Ordinances
- 5.10.150 No Private Right of Action

This Chapter was repealed by Ordinance 2575, May 2018

**CHAPTER 5.12
PEDDLERS/SOLICITORS**

Sections:

- 5.12.010 Definitions
- 5.12.020 License required – exemptions
- 5.12.030 License – application
- 5.12.040 Investigation of applicant – issuance and denial of license
- 5.12.050 Photo identification exhibited
- 5.12.060 License expiration
- 5.12.070 License – revocation
- 5.12.080 Appeals
- 5.12.090 Use of streets
- 5.12.100 Hours and notice
- 5.12.110 Penalty for violation
- 5.12.120 Remedies are cumulative

5.12.010 Definitions

A “peddler/solicitor” is defined as follows:

1. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the City of Tukwila by going from house to house, from place to place, or by indiscriminately approaching individuals from a location on any street, alley, sidewalk or other public thoroughfare.

2. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business.

(Ord 1887 §2, 1999)

5.12.020 License required – exemptions

A. No person, corporation, partnership or other organization shall engage in the business of a peddler within the corporate limits of the City of Tukwila without first obtaining a license to do so. If an individual is acting as an agent for or employed by an individual, corporation, partnership or other organization, both the individual and the employer or principal for whom the individual is peddling must obtain a license to conduct business.

B. The following persons are exempt from the license requirements and fee provisions of this chapter upon establishing proof of exempt status:

1. Farmers, gardeners or other persons who deliver or peddle any agricultural, horticultural, or farm products which they have actually grown, harvested or produced, provided that this exemption does not apply to the sale of firewood;

2. Any person selling or delivering door-to-door or on an established route, milk or milk products, bakery goods, or laundry and dry cleaning services;

3. Newspaper carriers who deliver door-to-door on an established route(s);

4. Any person who is specifically requested to call upon others for the purpose of displaying goods, literature or giving information about any article, service or product;

5. Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 U.S.C. 501 (c)(3) or other similar civic, charitable or nonprofit organizations; and

6. Bona fide candidates, campaign workers and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency.

(Ord 1887 §3, 1999)

5.12.030 License – application

A. Applicants for a license under this chapter must be at least 18 years of age and must file with the Finance Director an application in writing on a form to be furnished by the City. The license issued pursuant to this chapter shall be renewed annually. At the time of initial application or renewal, the applicant shall present picture identification which shall include:

1. a motor vehicle operator's license, issued by the State of Washington, bearing the applicant's photograph, date of birth, and signature; or

2. a Washington State-issued identification card bearing the applicant's photograph, date of birth, and signature; or

3. a valid US Passport

B. All applicants shall provide the following information on the application:

1. Name, description of applicant, and date of birth.

2. Permanent home address and local address of applicant.

3. Telephone number.

4. A brief description of the nature of the business and the goods or services to be sold.

5. If employed by another, the address and name of the employer and a statement of the exact relationship between the applicant and the employer.

6. If a vehicle is to be used, a description of the same, including the license number.

7. A statement as to whether or not the applicant has been convicted of any crime within the last ten years, including misdemeanors, gross misdemeanors, or violations of any municipal ordinance; the nature of the offense; and the punishment or penalty assessed therefore.

8. A statement that a license, if granted, will not be used or represented as an endorsement by the City for solicitations thereunder.

9. For all sales occurring on a parcel of private property, the following must accompany the application:

a. The name and signature of the property owner authorizing the use of the parcel.

b. Other such information as may be required by the City.

C. Any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers shall obtain a license as provided herein and shall provide the following information on the application in addition to any information required as set forth above:

1. The applicant's name, address and telephone number and the names and addresses of all individuals who are employed by or acting as an agent for the applicant.

2. If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent.

3. If a partnership, the names, addresses and telephone numbers of the partners.

4. A list of any criminal convictions during the past ten years for the applicant, any owners of the business, and if a corporation, the board of directors and officers.

5. Name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicants.

6. A list of all other cities, towns and counties where the applicant has obtained a peddler's permit or similar permit within the past five years.

7. Other information as may be required by the City.

D. At the time of filing, each applicant will have their photo taken by City staff. Such photo will show the applicant's head and shoulders in a clear and distinguishing manner and will be used for issuance of picture identification as referenced in TMC 5.12.050.

E. At the time of filing, each applicant shall pay a non-refundable fee in an amount in accordance with the fee schedule adopted by resolution of the City Council to cover the City's cost of investigation and the issuance of a permit, including each peddler, principals and/or employer.

(Ord. 2496 §14, 2016; Ord 1887 §4, 1999)

5.12.040 Investigation of applicant – issuance and denial of license

A. The Finance Director shall refer the application to the Police Department, which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. The applicant's information shall be submitted to the Washington State Patrol Identification and Criminal History Section (WASIS). Any Washington State criminal history conviction records on the applicant shall be provided to and reviewed by the City of Tukwila Police Department. The applicant shall submit an additional fee for the WATCH (Washington Access to Criminal History) background check in accordance with the fee schedule to be adopted by resolution of the City Council. Upon completion of the investigation, the Police Department shall

forward a recommendation for approval or denial to the Finance Director.

B. If, as a result of the investigation, the character and business responsibility of the applicant is found to be satisfactory, the Finance Director shall issue the license to the applicant. The Finance Director shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;

2. Committed any act which, if committed by a license holder, would be grounds for suspension or revocation of a license;

3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

4. Been refused a license under the provisions of the chapter; providing, however, that any applicant denied a permit under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; or

5. Made any false or misleading statement in the application.

C. The denial of a license to an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers, shall be a sufficient basis to deny a license to the individual applicants who are employed by or acting as an agent for the applicant.

D. The notice of non-issuance of a peddler's license shall be sent to the applicant or license holder by registered mail at the address provided on the license application. Notice shall be deemed received by the applicant 3 business days after mailing.

(Ord. 2496 §16, 2016; Ord. 2496 §15, 2016; Ord 2355 §12, 2011; Ord 1887 §5, 1999)

5.12.050 Photo identification exhibited

Peddlers are required to exhibit their photo identification card in a fully visible manner, on their person, while conducting any peddling activities.

(Ord 1887 §6, 1999)

5.12.060 License expiration

All licenses issued pursuant to this chapter are nontransferable and valid for the calendar year in which issued unless otherwise revoked or suspended. License fees shall not be prorated for any portion of the year.

(Ord 1887 §7, 1999)

5.12.070 License – revocation

A. The Finance Director may revoke any license under this chapter after notice and hearing where one or more of the following conditions exist:

1. The license was procured by fraud, by a materially false or misleading representation of fact in the application or in any report or record required to be filed with the Finance Director.

2. Fraud, misrepresentation or false statements made in the course of carrying on the business as a peddler.

3. Violation of any provision in this chapter.

4. Conviction, after submission of the application for a peddler's license, of a felony or misdemeanor directly relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation.

5. Conducting the business of peddling in any unlawful manner or such manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

6. The revocation of any permit held by an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers shall constitute a basis for revoking the permit issued to individual applicants who are employed by or acting as agents for such individual, corporation, partnership or organization.

7. The revocation of a license for three or more persons who are employees or agents of an individual, corporation, partnership or organization shall constitute a basis for revoking the license issued to the employer or principal, as well as the licenses issued to all other employees or agents of that employer or principal.

B. Upon determination that grounds for revocation of a license exist, the Finance Director shall send the license holder a notice of revocation by certified mail, return receipt requested. Such notice shall be deemed received by the license holder 3 business days after mailing, and the revocation shall be effective 10 days immediately thereafter.

(Ord. 2496 §17, 2016; Ord 2335 §13, 2011; Ord 1887 §8, 1999)

5.12.080 Appeals and hearing

A. The applicant or license holder may appeal the decision of the Finance Director to not issue or revoke a peddler's license by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the notice of non-issuance or revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's

Hearing Examiner or other hearing body. 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. 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.

D. 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 or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §18, 2016; Ord 1887 §9, 1999)

5.12.090 Use of streets

No peddler shall have any exclusive right to any location in the public streets or publicly-owned right-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For purposes of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Ord 1887 §10, 1999)

5.12.100 Hours and notice

No person shall engage in the business of peddler between the hours of 8:00PM and 8:00AM.

(Ord 1887 §11, 1999)

5.12.110 Penalty for violation

Violation of any terms of this chapter shall constitute a misdemeanor, and any person convicted of such offense shall be punished by a fine of up to \$1,000 and/or imprisonment for a term not to exceed 180 days.

(Ord 1887 §12, 1999)

5.12.120 Remedies are cumulative

The remedies provided for in this chapter to address non-compliance in this chapter are cumulative and shall be in addition to other remedies available in equity or at law.

(Ord 1887 §13, 1999)

CHAPTER 5.16
CARD AND POOL ROOMS

Sections:

5.16.010 General

5.16.010 Card and Pool Rooms

This Chapter was repealed by Ordinance 2315, November 2010

CHAPTER 5.20
CERTAIN GAMBLING ACTIVITIES
PROHIBITED

Sections:

5.20.010 General

**5.20.010 Prohibition Against Social Card Rooms
Operated as a Commercial Stimulant**

This Chapter was repealed by Ordinance 2363, December 2011.

CHAPTER 5.32
TRAILER PARKS

Sections:

5.32.010 General

5.32.010 Trailer Parks

This Chapter was repealed by Ordinance 2355,
November 2011

**CHAPTER 5.36
ROCK QUARRIES**

Sections:

- 5.36.010 Quarry defined
- 5.36.020 License required
- 5.36.030 Council investigation
- 5.36.040 License issuance
- 5.36.050 Business tax
- 5.36.060 Dirt and waste removal exemption from tax
- 5.36.070 Weighing rock or coal on lawful scale
- 5.36.080 Record of weight required
- 5.36.090 Statement of weight to City Council
- 5.36.100 Hours of operation
- 5.36.110 Operating rock crusher within City limits unlawful
- 5.36.120 Compliance with State and City laws required
- 5.36.130 Removal of debris
- 5.36.140 Liability
- 5.36.150 Compliance with State Highway Department
- 5.36.160 Impairing lateral support of adjacent land
- 5.36.170 Grade level depth
- 5.36.180 Removal of temporary buildings
- 5.36.190 License revocation
- 5.36.200 Guarantee to pay damages

5.36.010 Quarry defined

“Quarry” as described in this chapter, means any place within the City where rock is removed with machinery.

(Ord. 182 §1, 1948)

5.36.020 License required

It is unlawful for any person, firm or corporation to operate a quarry within the corporate limits of the City without having first secured from the City Council a license to operate the quarry. The application for a license shall state the location of the proposed quarry and the number of years for which the license is required.

(Ord. 182 §2, 1948)

5.36.030 Council investigation

Upon the request for a license to operate a quarry within the City limits, the City Council shall investigate such request, giving special consideration to the location of the proposed quarry and the desirability of a quarry in such a location. The Council’s decision shall be made without delay and shall be final.

(Ord. 182 §3, 1948)

5.36.040 License issuance

Upon the approval of the City Council for the operation of a quarry within the City, the Finance Director shall be instructed to issue a license without charging a fee.

(Ord. 2355 §14, 2011; Ord. 182 §4, 1948)

5.36.050 Business tax

A. The operator of a quarry shall be required to pay to the City a business tax of two cents per ton on all rock removed from the premises, which is suitable for rockery work, construction work, rip-rapping or road work.

B. The operator shall pay to the City a business tax of five cents per ton on all coal removed from the premises but shall be privileged to leave on the premises, as waste, any coal of which he cannot profitably dispose.

(Ord. 182 §5, 1948)

5.36.060 Dirt and waste removal exempt from tax

The operator of a quarry may remove dirt and waste material, as defined in this chapter, other than coal, from the premises without paying a business tax. Waste, as defined in this chapter, shall be only the material that will not be sold.

(Ord. 182 §6, 1948)

5.36.070 Weighing rock or coal on lawful scale

No rock or coal shall be removed from the licensed premises without having been weighed upon an accurate and lawful scale, which shall be open to the inspection of the City Council or its authorized representative at any time.

(Ord. 182 §7, 1948)

5.36.080 Record of weight required

A record of each load weighed shall be entered, at the time of weighing, in a permanent bound book, to be kept on the premises, and the load slip for each truck load removed, showing the time, weight and type of material, whether rock or coal, shall be made out and signed by the weight-master and the driver of the truck, and shall be retained by the operator for the examination by the City Council or its authorized representative. Such load slips shall be on a special printed form bearing consecutively numbered serial numbers, and each slip shall be accounted for. All such records shall be made in duplicate and the City furnished with a copy. Records shall be carefully preserved by the operator and be constantly available to the City Council or its authorized representative for audit or inspection.

(Ord. 182 §8, 1948)

5.36.090 Statement of weight to City Council

On the 15th day of each month the operator shall furnish to the City Council a written statement showing the weight of all rock and coal removed from the premises during the preceding month, and at the same time shall remit therefor.

(Ord. 182 §9, 1948)

5.36.100 Hours of operation

The quarry shall be operated only on regular working days. The hours of operation shall be between the hours of 6:00 a.m. and 8:00 p.m. on regular working days.

(Ord. 182 §10, 1948)

5.36.110 Operating rock crusher within City limits unlawful

It is unlawful for any person, firm or corporation to operate a rock crusher within the corporate limits of the City.

(Ord. 182 §11, 1948)

5.36.120 Compliance with State and City laws required

The operator of a quarry shall at all times conduct the operation of the quarry in compliance with all requirements of the laws of the State and the City, and legally authorized requirements of public officials, and shall not commit or permit any nuisance on the premises where operating.

(Ord. 182 §12, 1948)

5.36.130 Removal of debris

All wood waste and other debris shall be burned or removed from the premises by the operator and must not be allowed to accumulate.

(Ord. 182 §13, 1948)

5.36.140 Liability

The operator shall post sufficient public liability and property damage insurance as required by the State for the operation of a quarry. Proof of such insurance must be filed with the Finance Director.

(Ord. 2355 §15, 2011; Ord. 182 §14, 1948)

5.36.150 Compliance with State Highway Department

The operator must comply with all requirements of the State Highway Department in all matters such as safety, approaches, fills and culverts.

(Ord. 182 §15, 1948)

5.36.160 Impairing lateral support of adjacent land

The operator shall not impair the lateral support of any adjacent land and in any event shall not, as the result of any excavation, mining or quarrying done by him, leave the property with any slope thereon steeper than a fall of 100 feet and 25 lateral feet if the surface of the slope is solid stone, or such lesser grade as may be reasonably necessary to provide an angle of repose and safety if the surface of the slope is of softer material or liable to slough by reason of cracking or crumbling.

(Ord. 182 §16, 1948)

5.36.170 Grade level depth

If the lower level of operation shall be along a street or highway, the grade shall be left level with the street or highway for a depth of 100 feet. Grade level depth must be maintained parallel to the street or highway for the entire distance of operation.

(Ord. 182 §17, 1948)

5.36.180 Removal of temporary buildings

All buildings not of a permanent nature must be removed when the period of operation is ended.

(Ord. 182 §18, 1948)

5.36.190 License revocation

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.

(Ord. 182 §19, 1948)

5.36.200 Guarantee to pay damages

The applicant for a license to operate a quarry shall be required to sign a guarantee to pay, or to have his insurance company pay, any and all damages that may be made against the City by any person or persons on account of injury or damage to persons or property occasioned by, or in any manner resulting from, the operation of a quarry under his license. In the event of any damage or injury occurring and an action being brought against the City therefor, the City shall promptly notify the operator and his insurance company of the commencement of the suit and notify him or them to take charge of the defense thereof.

(Ord. 182 §20, 1948)

CHAPTER 5.40
MESSAGE ESTABLISHMENTS

Sections:

5.40.010 Message Establishments

This Chapter was repealed by Ordinance No. 2315
November 2010.

CHAPTER 5.44
TOW TRUCK BUSINESSES

Sections:

5.44.010 Tow Truck Businesses

This Chapter was repealed by Ordinance No. 2461
December 2014.

CHAPTER 5.48

AMUSEMENT CENTERS AND DEVICES

Sections:

- 5.48.010 Meaning of terms
- 5.48.020 License and fees required
- 5.48.030 License fees
- 5.48.040 Issuance of license
- 5.48.050 Hours of operation
- 5.48.060 Violations and penalties
- 5.48.070 Enforcement
- 5.48.080 Existing facilities
- 5.48.090 Severability
- 5.48.0100 Appeals and hearing

5.48.010 Meaning of terms

As used in this chapter, the following terms shall have the following meanings:

1. “*Amusement center*” means any place for business in which there are ten or more amusement devices for purposes of play, use or operation.

2. “*Amusement device*” means any machine or device which provides recreation or entertainment, as a game of skill, for which a charge is made for use or play; and which is not a gambling device or a device that encourages gambling, but does not include music machines, riding devices, television, and other devices for the display of pictures or views on film; nor does it include any automatic vending machine or device used exclusively for the vending of tangible merchandise.

3. “*Amusement device fees*” means fees to be paid to the City of Tukwila on each and every amusement device installed in any location in the City.

4. “*Amusement device lessor*” means a person, corporation or firm who has legal title to an amusement device as defined herein, or as a purchaser or lessee is entitled to possession or control of said amusement device.

5. “*Automatic vending machine*” means an automatic machine or device operated by coins or currency which delivers tangible merchandise upon the deposit of coins or currency.

(Ord. 1273 §1, 1982)

5.48.020 License and fees required

A. It is unlawful for any person, firm or corporation to conduct or operate an amusement center in the City without first obtaining a license pursuant to the provisions of this title.

B. It is unlawful for an amusement device lessor to place amusement devices at any location within the City without first obtaining a business license pursuant to Chapter 5.04 of this code.

C. It is unlawful for any person, firm or corporation to allow any amusement device to be operated within the place of business without first obtaining a license for each machine pursuant to the provisions of this title.

(Ord. 1273 §2, 1982)

5.48.030 License fees

A. The license fee for each amusement center shall be in accordance with the fee schedule adopted by resolution of the City Council. Such fee shall be payable annually.

B. The amusement device fee shall be in accordance with the fee schedule adopted by resolution of the City Council. Such fee shall be payable annually.

(Ord. 2496 §19, 2016; Ord. 2355 §19, 2011; Ord. 1273 §3, 1982)

5.48.040 Issuance of license

A. Any person, firm or corporation desiring to apply for an amusement center license under the provisions of this chapter shall have a Conditional Use Permit as required in the Zoning Code of the City.

B. Any person, firm or corporation desiring to apply for one or more of the licenses provided for by this chapter shall make a written application for such license or licenses with the Finance Director on a form prescribed by the Finance Director. At the time of applying for such license, said applicant shall deposit with the Finance Director the full amount of the license fee for the period for which application is made, in accordance with the fee schedule adopted by resolution of the City Council.

C. Said application shall be reviewed by a committee made up of the Finance Director, Fire Chief, Police Chief and Planning Director. The committee shall establish the qualifications of the applicant for the license being applied for and to assure compliance of all the laws, rules and regulations of the City regarding the installation and maintenance of the amusement devices. The decision of the review committee to grant or deny the application may be appealed in accordance with TMC Section 5.48.100.

D. All licenses issued under this chapter shall be issued only to the person, firm or corporation; the license may not be transferred without prior written consent of the City following review of the proposed transfer by the license review committee.

E. All licenses issued allowing amusement devices within business operations must be prominently displayed. Each license will indicate the number of operable machines allowed on the premises.

F. All application and renewal fees for amusement center licenses and amusement devices, in accordance with the fee schedule adopted by resolution of the City Council, shall be due and payable on the first day of October of each year.

G. All licenses issued hereunder shall be good for a period of one year.

(Ord. 2496 §20, 2016; Ord. 2355 §20, 2011; Ord. 1273 §4, 1982)

5.48.050 Hours of operation

A. Except as provided hereunder, it shall be unlawful for any amusement center to conduct business or be open for business between the hours of 12:00 midnight and 8:00 a.m. on Monday through Friday, and between the hours of 2:00 a.m. and 8:00 a.m. on Saturday and Sunday.

B. Those amusement centers which have a Class H or a combined Class B, E and F retailers’ license issued by the State of Washington for the sale of liquor shall not be limited in the

hours of operation of amusement devices which are located within the area of the establishment having such liquor license; however, the total of all amusement devices on the premises, both inside and outside the area required to be licensed for the sale of liquor, shall be considered for amusement center licensing purposes.

(Ord. 1273 §5, 1982)

5.48.060 Violations and penalties

A. In the event that the required fees are not paid when due, there shall be levied a delinquency fee of 30% of the annual gross license fee due. This penalty shall also extend to amusement devices placed on the premises anytime during a license year if a license is not acquired at the time of installing the machine.

B. If the penalties and delinquency fees are not paid within 90 days after the due date, all amusement devices will be removed from the premises at the direction of the Chief of Police. An amusement device removal fee on each machine plus an amusement device storage fee per machine shall be charged in accordance with the fee schedule adopted by resolution of the City Council.

C. It is a violation of this chapter for the owner or operator of a business to fail to publicly display his amusement device license.

D. It is unlawful for the owner, operator, manager, or other person in charge of any amusement center or place in which an amusement device is located to permit or allow to be used or played in such place any amusement device not having attached thereto the name and current address of the owner of the amusement device.

E. Any person violating any provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in a sum not to exceed \$500.00 or by imprisonment not to exceed six months, or both. Any person who engages in or carries on any business subject to a license hereunder without having first obtained the appropriate license shall be guilty of violation of this chapter for each day during which the business is so engaged. Any person who fails to pay the license fee or any part thereof on or before the due date shall be deemed to be operating without a license.

(Ord. 2496 §21, 2016; Ord. 1273 §6, 1982)

5.48.070 Enforcement

The Finance Director, the Police Chief and Fire Chief are empowered to administer, carry out and enforce the policies and provisions of this chapter.

(Ord. 2355 §21, 2011; Ord. 1273 §7, 1982)

5.48.080 Existing facilities

All amusement centers and amusement devices located or operating within the City on or after September 30, 1982, are subject to the provisions of this chapter.

(Ord. 1273 §8, 1982)

5.48.090 Severability

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Ord. 1273 §9, 1982)

5.48.100 Appeals and hearing

A. The applicant or license holder may appeal the decision of the committee, to suspend, deny or revoke a license by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Denial, Suspension or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. 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 committee's decision.

D. 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 or other hearing body shall issue a written decision which shall set forth the reasons therefor.

(Ord. 2496 §22, 2016)

**CHAPTER 5.50
PAWNBROKERS AND
SECOND HAND DEALERS**

Sections:

5.50.010 Pawnbrokers and second hand dealers – State statutes adopted

5.50.010 Pawnbrokers and second hand dealers – State statutes adopted

The following statutes of the State of Washington are adopted by reference:

- RCW 19.60.010 Definitions.
- RCW 19.60.014 Fixed place of business required.
- RCW 19.60.020 Duty to record information.
- RCW 19.60.040 Report to chief law enforcement officer.
- RCW 19.60.045 Duties upon notification that property is reported stolen.
- RCW 19.60.050 Retention of property by pawnbrokers – inspection.
- RCW 19.60.055 Retention of property by second hand dealers – Inspection.
- RCW 19.60.060 Rates of interest and other fees – Sale of pledged property.
- RCW 19.60.061 Pawnbrokers – Sale of pledged property limited – Written document required for transactions.
- RCW 19.60.062 Attorney fees and costs in action to recover possession.
- RCW 19.60.066 Prohibited acts – Penalty.
- RCW 19.60.075 Regulation by political subdivisions.
- RCW 19.60.085 Exemptions.
- RCW 19.60.900 Severability.

(Ord. 1476 §1, 1988)

**CHAPTER 5.52
PANORAM DEVICES**

Sections:

- 5.52.010 Definitions
- 5.52.020 Panoram premises license required
- 5.52.030 Panoram device license required
- 5.52.040 Panoram operator’s license required
- 5.52.050 License fee – Terms – Assignment – Renewals
- 5.52.060 License application – Report by City departments
- 5.52.070 Inspection of panoram premises
- 5.52.080 Issuance of licenses
- 5.52.090 Suspension or revocation of licenses – Notices – Summary suspension
- 5.52.100 Appeal and hearing
- 5.52.110 Premises regulations
- 5.52.120 Unlawful acts
- 5.52.130 Violations and penalties
- 5.52.140 Compliance

5.52.010 Definitions

As used in this chapter, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

1. “*Finance Director*” means the City of Tukwila employee or agent appointed by the Mayor as licensing official under this chapter.

2. “*Panoram*,” “*preview*,” “*picture arcade*” or “*peep show*” means any device which, for payment of a fee, membership fee or other charge, is used to view, exhibit or display a film or videotape. All such devices are denominated in this chapter by the terms “panoram” or “panoram device.” The terms “panoram” or “panoram device” as used in this chapter do not include games which employ pictures, views or video displays, or gambling devices regulated by the State.

3. “*Panoram premises*” means any premises or portion of any premises on which any panoram device is located and to which members of the public are admitted. The term “panorama premises” as used in this chapter does not include movie or motion picture theater auditoriums capable of seating more than five people.

4. “*Panoram station*” means a portion of any premises premises on which a panoram device is located and where a patron or customer would ordinarily be positioned while watching the panoram device.

(Ord. 2355 §22, 2011; Ord. 1475 §1 (part), 1988)

5.52.020 Panoram premises license required

A. It is unlawful to display, exhibit, expose or maintain any panoram device upon any premises to which members of the public are admitted unless there is a valid and current panoram premises license for such premises.

B. A separate panoram premises license is required for each panoram premises and the same shall at all times be conspicuously posted and maintained therein.

C. The Finance Director shall prescribe the form of such license, number the same, and shall indicate thereon the number of panoram devices which may be operated thereunder, and the location of the licensed panoram premises.

(Ord. 2355 §23, 2011; Ord. 1475 §1 (part), 1988)

5.52.030 Panoram device license required

A. It is unlawful to exhibit or display for public use any panoram device upon any panoram premises without first having obtained a panoram device license for each such panoram device.

B. Panoram device licenses shall be issued for specific panoram premises only and shall not be transferable.

C. The current panoram device license for each panoram device shall be securely attached to each panoram device in a conspicuous place.

D. The Finance Director shall prescribe the form of such license and number the same.

(Ord. 2355 §24, 2011; Ord. 1475 §1 (part), 1988)

5.52.040 Panoram operator’s license required

It is unlawful to own and exhibit or display for public use, or to place with another, by lease or otherwise, for public use, exhibit or display, any panoram device without a valid and current panoram operator’s license. The Finance Director shall prescribe the form of such license and shall number the same.

(Ord. 2355 §25, 2011; Ord. 1475 §1 (part), 1988)

5.52.050 License fee – Terms – Assignment – Renewals

A. The license year for licenses under this chapter shall be from January 1 to December 31. All licenses under this chapter shall expire on December 31 of each year. Except as hereinafter provided, all license fees under this chapter shall be payable on an annual basis. Annual license fees for a Panoram premises license, Panoram device license and/or Panoram operator license shall be in accordance with the fee schedule adopted by resolution of the City Council.

B. License fees under TMC Section 5.52.050.A shall not be prorated. Licenses issued under this chapter may not be assigned or transferred to other premises, operators or devices.

C. On or before December 31 of each year, a licensee under this chapter shall file an application for each license he wishes to use in the next license year. An application for a license shall be filed in the same manner as an initial application for such a license, and shall be accompanied by a fee in an amount equal to the license fee applicable to an original application for such a license, in accordance with the fee schedule adopted by resolution of the City Council. Applications filed after December 31 shall be assessed an additional charge as follows:

1. If the application is more than 6 but less than 31 days late, the additional charge is 25% of the application fee.

2. If the application is more than 30 but less than 61 days late, the additional charge is 50% of the application fee.

D. If a licensee, on or before December 31 of any year, gives written notice to the Finance Director that he will not conduct business in a manner requiring a license under this chapter after December 31, such licensee may reapply for a license at any time he wishes to conduct a business requiring such a license.

E. If a licensee does not give written notice as provided for in TMC Section 5.52.050.D or, having given such notice, operates after December 31 in a manner requiring a license under this chapter and does not renew such required license as provided in TMC Section 5.52.050.C, such license shall be automatically revoked on the 61st day of the year, and such licensee may not reapply for such license for a period of one year from such date of revocation. Upon such revocation, the Finance Director shall promptly mail written notice of such revocation to such licensee. The revocation shall be deemed received by the licensee 3 days after mailing.

(Ord. 2496 §23, 2016; Ord. 2355 §26, 2011; Ord. 1475 §1 (part), 1988)

5.52.060 License application – Report by City departments

A. Any person seeking a panoram premises license, panoram operator’s license or panoram device license shall file a written application with the Finance Director on a form provided by the Finance Director for that purpose. The Finance Director, upon presentation of such application and before acting upon the same, shall refer such application to the City Police Department, which shall make a full investigation as to the truth of the statements contained therein, and to the City Development Review Committee and City Fire Department, and to the County Health Department, which shall investigate and provide information to the Finance Director concerning compliance of the premises and devices sought to be licensed with this and other applicable City and State health, zoning, building, fire and safety ordinances and laws.

B. Applicants for any license or renewal thereof under this chapter shall provide information as follows:

1. With each application for a panoram premises license or renewal thereof, applicants shall provide:

- a. The name, address and telephone number of each person applying for the license;
- b. The name, address and telephone number of each person holding an ownership, leasehold or interest in the panoram e premises;
- c. The name, address and telephone number of the manager or other person responsible for the operation of the premises;
- d. The address of the premises;
- e. The number of panoram devices to be located on the premises; and
- f. A sketch or drawing sufficient to show the layout of the premises, including all information necessary to determine whether the premises complies with the provisions of this chapter.

2. With each application for a panoram device license or renewal thereof, applicants shall provide:

- a. The name, address and telephone number of each person applying for the license;
- b. The name, address and telephone number of each person holding an ownership, leasehold or other interest in the panoram device;
- c. The name, address and telephone number of each person responsible for the operation of the panoram device;
- d. The address at which the panoram device is to be located; and
- e. A description of the panoram device, including make, model and serial number.

3. With each application for a panoram operator's license or renewal thereof, applicants shall provide:

- a. The name, address and telephone number of each person applying for the license;
- b. The name, address and telephone number of each person holding an ownership, leasehold or other interest in the panoram device; and
- c. A list of all panoram devices and premises at which panoram devices are located, together with a description of all panoram devices, including make, model and serial number.

(Ord. 2355 §27, 2011; Ord. 1475 §1 (part), 1988)

5.52.070 Inspection of panoram premises

A. Applicants for any license under this chapter with respect to any premises or devices shall allow such premises or devices to be inspected by authorized inspectors from the City Fire Department, City Police Department, City Development Review Committee and County Health Department, for the purpose of determining whether such premises and devices comply with this chapter.

B. Licensees operating premises and devices licensed under this chapter shall hold those areas upon the premises which are accessible to the public and the devices therein open for routine regulatory inspections by the City Fire Department or City Police Department during normal business hours.

(Ord. 1475 §1 (part), 1988)

5.52.080 Issuance of licenses

A. Within 30 days of the date of filing of any application, the Finance Director shall issue the license or licenses applied for or renewal thereof, or notice of non-issuance and the reasons therefor.

B. The Finance Director shall issue the license or licenses applied for if and only if, after an investigation, the Finance Director finds:

- 1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and standards of this chapter; and
- 2. That the applicant, his or her employee, agent, partner, director, officer, stockholder or manager has not knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the Finance Director.

C. The Finance Director shall renew a license upon application unless the Finance Director is aware of facts that would disqualify the applicants from holding the license for which they seek renewal.

(Ord. 2355 §28, 2011; Ord. 1475 §1 (part), 1988)

5.52.090 Suspension or revocation of licenses - Notices —Summary spension

A. After an investigation and upon the recommendation of the Chief of Police, Director of Planning, Fire Chief or the County Health Officer, the Finance Director may, upon 30 days' notice, temporarily or permanently suspend or revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

- 1. The license was procured by fraud or misrepresentation of a material fact in the application or in any report or record required to be filed with the Finance Director;
- 2. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or the standards of this chapter;
- 3. The licensee, his or her employee, agent, partner, director, officer or manager has knowingly allowed or permitted in or upon the panoram premises any violations of this chapter or acts made unlawful under this chapter.

B. If the Finance Director finds that any condition set forth in TMC Section 5.52.090.A exists, and that such condition constitutes a threat of immediate serious injury or damage to persons or property, the Finance Director may immediately suspend any license issued under this chapter pending a hearing in accordance with TMC Section 5.52.100. The Finance Director shall issue notice setting forth the basis for the Finance Director's action and the facts supporting the Finance Director's finding regarding the condition found to exist that constitutes a threat of immediate serious injury or damage to person or property.

(Ord. 2355 §29, 2011; Ord. 1475 §1 (part), 1988)

5.52.100 Appeal and hearing

A. The applicant or license holder may appeal the decision of the Finance Director to suspend, deny or revoke a license issued under this chapter by filing a written notice of appeal with the City Clerk within 10 days following receipt of the notice of suspension, denial or revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal, except as provided in TMC Section 5.52.100.E.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. 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.

D. 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 or other hearing body shall issue a written decision which shall set forth the reasons therefor.

E. In cases of summary suspension of licenses because of the threat of immediate serious injury or damage to persons or property pursuant to TMC Section 5.52.090.B, upon receipt of a timely notice of appeal, the Finance Director shall set a hearing within 5 business days before the City's Hearing Examiner or other hearing body. The City's Hearing Examiner or other hearing body shall render a decision within 5 business days of the conclusion of the hearing. The filing of such an appeal shall not stay the action of the Finance Director from which the appeal is taken.

(Ord. 2496 §24, 2016; Ord. 2355 §30, 2011; Ord. 1796 §3 (part), 1997; Ord. 1475 §1 (part), 1988)

5.52.110 Premises regulations

It shall be unlawful and a violation of this chapter for a panoram operator, or anyone owning or controlling a panoram premises, to cause, maintain, or permit to exist any condition in violation of this section; and the Finance Director shall not license any panoram premises which do not conform to the requirements of this section, and shall revoke or suspend the license of any panoram premises, and the license of any operator thereof, which do not maintain conformity with these requirements.

1. The interior of every panoram station shall be visible from a continuous main aisle and shall not be obscured by any curtain, door, wall, or other form of partition or enclosure.

2. The panoram stations on any panoram premises shall be separated by partitions constructed of wood or other solid and opaque material. No openings in such partitions for ventilation or other purposes shall extend higher than 12 inches from the floor or lower than 84 inches from the floor.

3. The licensee shall not permit any doors to areas on the premises which are available for use by persons other than the licensee or employees of the licensee to be locked during business hours.

4. The licensee shall maintain illumination equally distributed in all parts of the premises available for use by the public, at all times when the premises are open or when any member of the public is permitted to enter and remain therein.

5. The entire floor area of a panoram booth or stall must be level with the continuous main aisle. No steps, ramps or risers are allowed in any such booth or stall.

6. The licensee shall permanently post and maintain on the interior and exterior of each booth or stall on the panoram premises a sign with one-inch lettering on a contrasting background stating:

“Occupancy of this booth is at all times limited to only one person. Violators are subject to criminal prosecution under TMC Section 5.52.130.”

7. The licensee shall not operate or maintain any warning system or device, of any nature or kind, for the purpose of warning customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premises that Police officers or City health, fire, licensing or building inspectors are approaching or have entered to the licensee's premises.

8. A licensed panoram operator shall be on the premises at all times that the panoram premises is open to the public for business.

*(Ord. 2355 §31, 2011; Ord. 1573 §1, 1990;
Ord. 1475 §1 (part), 1988)*

5.52.120 Unlawful acts

A. A panoram booth or stall shall be subject to the requirements of this chapter may only be occupied by one person at any one time. It is unlawful for any person to occupy such a booth or stall at the same time it is occupied by any other person.

B. It is unlawful to stand or kneel on any chair or seating surface in a panoram booth or stall.

C. It is unlawful for any owner, operator, manager, employee or other person in charge of premises for which a panoram location license is required to warn, aid and abet the warning of, customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premise that Police officers or City health, fire, licensing or building inspectors are approaching or have entered the licensee's premises.

(Ord. 1475 §1 (part), 1988)

5.52.130 Violations and penalties

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter, including the premises regulations enumerated in TMC 5.52.110, shall upon conviction thereof be punished by a fine of not more than \$500.00, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day, or part of day, during which any violation of any provision of this chapter is committed, continued, or permitted. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by this City, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. 1573 §2, 1990; Ord. 1475 §1 (part), 1988)

5.52.140 Compliance

All persons regulated pursuant to this chapter shall comply with this chapter within 30 days of the effective date of the ordinance codified in this chapter.

(Ord. 1475 §1 (part), 1988)

CHAPTER 5.56

ADULT ENTERTAINMENT CABARETS

Sections:

5.56.010	Purpose
5.56.020	Definitions
5.56.030	Adult entertainment cabaret licenses
5.56.040	Manager's licenses and entertainer's licenses
5.56.050	License applications
5.56.060	Issuance of license and renewal of application
5.56.070	Lewd performance
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5.56.090	Revocation or suspension of licenses
5.56.100	Appeals
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5.56.120	Civil remedies – Abatement
5.56.130	Other remedies
5.56.140	Compliance with other ordinances
5.56.150	No private right of action

5.56.010 Purpose

A. This chapter is intended to protect the general health, safety and welfare of the citizenry of the City through the regulation of adult entertainment cabarets. The regulations set forth herein are intended to prevent dangerous and unlawful conduct, and to prevent health and safety problems, in and around adult entertainment cabarets. This regulation is supported specifically by Tukwila's own experience with adult entertainment cabarets, and generally by the experience of other cities with similar establishments.

B. This chapter is intended to deter the serious and repeated violations of criminal law that regularly occur in adult entertainment cabarets. The City Council considers these crimes to be serious, and their prevention and elimination to be of paramount importance to the health, safety and welfare of the City.

(Ord. 2575 §3, 2018; Ord. 1747 §1 (part), 1995;
Ord. 1490 §2 (part), 1988)

5.56.020 Definitions

For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. "Adult entertainment" means:

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

male genitals in a discernibly turgid state, even if completely and opaquely covered; or

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

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

3. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

B. "Adult entertainment cabaret" means any premises open to the public in which there is at any time an exhibition or dance constituting "adult entertainment" as described in TMC Section 5.56.020.A, provided for the use or benefit of a member or members of the adult public, or advertised for the use or benefit of a member or members of the adult public; provided, that "adult entertainment cabaret" does not include any tavern or other business that maintains a liquor license.

C. "Employee" means any and all persons, including entertainers, who work in or at or render any services directly related to the operation of an adult entertainment cabaret.

D. "Entertainer" means any person who performs any entertainment, exhibition or dance of any type within an adult entertainment cabaret, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.

E. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any other performance.

F. "Finance Director" means the City Finance Director or his/her designee who is designated by the Mayor as licensing official under this chapter.

G. "Manager" means any person licensed as a manager under this chapter.

H. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult cabaret.

I. "Operator" means all persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management control or authority over an adult entertainment cabaret or its affairs, without regard to whether such person(s) owns the premises in which the adult entertainment cabaret does business.

An Operator "effectively exerts management control or authority" when he or she actually does, or is in a position to, participate in the management, direction or oversight of an adult entertainment cabaret or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with an adult entertainment cabaret or any parent company or affiliate.

An Operator's "parent company or affiliate" means any other person which owns 50% or more of any class of an operator's stock, or which effectively exerts management control or authority over an operator.

J. "Performance area" means an area no larger than the area beginning six feet away from, and running parallel to, the front edge of a stage on which adult entertainment is permitted to occur, and which extends away from the stage no deeper than the depth of that stage.

K. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

L. "Sexual conduct" means acts of:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object; or
3. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
4. Masturbation, manual or instrumental, of oneself or of one person by another; or
5. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another.

(Ord. 2575 §4, 2018; Ord. 2496 §25, 2016; Ord. 2355 §32, 2011; Ord. 1910 §1, 2000; Ord. 1747 §1 (part), 1995; Ord. 1604 §1, 1991; Ord. 1490 §2 (part), 1988)

5.56.030 Adult entertainment cabaret licenses

A. **Required.** No adult entertainment cabaret shall be operated or maintained in the City unless the owner or lessee thereof has a current adult entertainment cabaret license under this chapter. It is unlawful for any operator, manager, entertainer or employee to knowingly work in or about, or to knowingly perform any service directly related to the operation of an adult entertainment cabaret, when such cabaret does not have a current adult entertainment cabaret license. It is unlawful for any person to conduct, manage or operate an adult entertainment cabaret unless such person is the holder of a valid license from the City to do so, obtained in the manner provided in this chapter.

B. **Expiration.** The license year for an adult entertainment cabaret license shall be from January 1 to December 31 of each year. Each such license shall expire at close of business or midnight, whichever is earlier, on December 31 of such year.

C. **Fees.** The license fee for an adult entertainment cabaret license shall be in accordance with the fee schedule adopted by resolution of the City Council. License fees under this chapter shall not be prorated.

D. **Terms.** Except as hereinafter provided, the license fee for such license is payable for a full year only and is not refundable.

E. **Assignments.** An adult entertainment cabaret license under this chapter shall not be assigned or transferred.

F. **Renewal of application.** The license holder shall submit a new application for a license annually. The application shall be submitted with a fee in accordance with the fee schedule adopted by resolution of the City Council.

(Ord. 2496 §26, 2016; Ord. 2355 §33, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.040 Manager's licenses and entertainer's licenses

A. **Required.** No person shall work as a manager at an adult entertainment cabaret in the City without a current manager's license under this chapter. No person shall work as an entertainer at an adult entertainment cabaret in the City of Tukwila without a current entertainer's license under this chapter. No person shall work at an adult entertainment cabaret in the City of Tukwila unless the adult entertainment cabaret license is valid and current.

B. **Expiration.** The license year for a manager's license or an entertainer's license shall be from January 1 to December 31 of each year. Each such license shall expire at close of business or midnight, whichever is earlier, on December 31 of each year.

C. **Fees.** The license fee for a manager's license or entertainer's license shall be in accordance with the fee schedule adopted by resolution of the City Council. The license fee for each such license is payable for a full calendar year only and is not refundable.

D. **Assignments.** A manager's license or entertainer's license under this chapter shall not be assigned or transferred.

E. **Minimum age.** No person under 18 years of age may obtain a manager's license or entertainer's license under this chapter.

F. **Renewal of application.** The license holder shall submit a new application for a license annually. The application shall be submitted with a fee in accordance with the fee schedule adopted by resolution of the City Council.

(Ord. 2575 §5, 2018; Ord. 2496 §27, 2016; Ord. 2355 §34, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.050 License applications

A. *Adult Entertainment Cabaret License* - Any application for an adult entertainment cabaret license or renewal thereof shall be submitted in the true name of the operator of the adult entertainment cabaret to which the application pertains. The true operator or his/her agent, under penalty of perjury, shall sign and notarize that all of the operators as defined in TMC Section 5.56.020 are listed and all of the information provided is true and correct. Any change in ownership in the adult entertainment cabaret must be reported to the Finance Director within 20 days of such change(s). Each such application shall be submitted on a form supplied by the Finance Director. The form shall require the following information:

1. If the applicant is an individual or partnership, the names, home addresses, home telephone numbers, dates and places of birth, and social security numbers of all operator(s). If the applicant is a partnership, all such information must be provided for all general partners;

2. If the applicant is a corporation, the names, addresses, telephone numbers, and social security numbers of all operators, and of all corporate officers and directors. The same information shall be required from each parent company or affiliate;

3. The name, address, and telephone number of the adult entertainment cabaret;

4. The name, address and telephone number of the owner of the property on which the adult entertainment cabaret is located;

5. The names, addresses, and telephone numbers of all employees of the adult entertainment cabaret;

6. A statement detailing whether the applicant or any operator, partner, corporate officer, director, or shareholder of 50% or more of any class of an operator's stock, holds any other licenses under this chapter or any similar adult entertainment or sexually oriented business ordinance, including motion picture theaters and panorams from the City or another city, county, or state, and if so, the names and addresses of each other licensed business and the jurisdiction(s) in which such businesses are located; and

7. A description of the sexually oriented adult entertainment business history of the applicant; whether such person or entity, in previously operating in this or another city, county or state, has had a business license or adult entertainment license revoked or suspended, the reason therefore, and the activity or occupation of the applicant subsequent to such action, suspension or revocation.

B. *Manager's License or Entertainer's License* -

1. Any application for a manager's license or entertainer's license, or any renewal thereof, shall be signed by the applicant and notarized to be true under penalty of perjury. Each such application shall be submitted on a form supplied by the Finance Director. The form shall require a statement of the applicant's name, home address, home telephone number, date and place of birth, and the name, address and phone number of

the adult entertainment cabaret or cabarets at which the applicant will work, and any stage names or nicknames used in entertaining. The form shall also require the applicant to disclose all prior criminal convictions, including the crime(s) convicted of, place, and the approximate date of each such conviction.

2. At the time of application or renewal, the applicant shall present picture identification which shall include (1) a valid motor vehicle operator's license, issued by the state of Washington, bearing the applicant's photograph and date of birth; or (2) a valid Washington state-issued identification card bearing the applicant's photograph and date of birth. At the time of application or renewal the applicant shall be photographed by the Tukwila Police Department for the Finance Director's records and the Police Department's records.

C. *Duty to Supplement Application* - In the event that any information on any application for a license under this chapter becomes outdated or otherwise inaccurate or incomplete, including but not limited to a change in the applicant's name, address, telephone number, or stage name, or substantial changes to an applicant's appearance, including but not limited to a change in hair style and color, or facial or other features including tattoos, an applicant or license holder shall appear before the Finance Director within 20 days and provide current information, including, when applicable, being photographed by the Tukwila Police Department to accurately reflect any change in looks when compared to the most recent photograph available under TMC Section 5.56.050.B.

(Ord. 2575 §6, 2018; Ord. 2355 §35, 2011;
Ord. 1747 §1 (part), 1995; Ord. 1604 §2, 1991;
Ord. 1490 §2 (part), 1988)

5.56.060 Issuance of license and renewal of application

A. Upon receipt of any complete application for a license, the Finance Director shall issue a temporary license, pending investigation and disposition of the application or completion of the term of any license suspension issued pursuant to this chapter. The temporary license shall expire upon issuance of a license or renewal thereof or notice of non-issuance or 30 days from the date of issue, whichever is sooner. The holder of a temporary license is subject to all requirements, standards and penalty provisions of this chapter.

B. After issuance of a temporary license, the Finance Director shall further refer the application to the Police Department, which shall investigate the truth of the statements in the application and shall investigate the applicant's compliance with the standards of this chapter. The applicant's information shall be submitted to the Washington State Patrol Identification and Criminal History Section (WASIS). Any Washington State criminal history conviction records on the applicant shall be provided to and reviewed by the City of Tukwila Police Department. The applicant shall submit an additional fee for the WATCH (Washington Access to Criminal History) background check in accordance with the fee schedule adopted by resolution of the City Council.

C. After an investigation, but prior to the expiration of the temporary license, the Finance Director shall issue a license if the Finance Director finds:

1. That the applicant complies with all applicable requirements and standards of this chapter; and
2. That the applicant has not made any false, misleading or fraudulent statement of fact in the application for a license, or in any report or record required to be filed with the Finance Director.

In the event the applicant has not met the enumerated requirements after the required investigations, the Finance Director shall issue a notice of non-issuance of the license. Notice of non-issuance shall specify the reasons therefor.

D. Upon receipt of any application for renewal of a license under this chapter, the Finance Director shall issue the renewal unless the Finance Director has information which indicates the applicant would not qualify for the initial issuance of a license under TMC Section 5.56.060.C. As necessary, the Finance Director may issue temporary licenses after receipt of a renewal application. In the event the applicant has not met the enumerated requirements after the required investigation, the Finance Director shall issue the renewal or notice of non-renewal of the application. Notice of non-renewal of application shall specify the reasons therefor.

E. **Receipt of the Notice of Denial, Suspension or Revocation.** The Notice of Denial, Suspension or Revocation of a license under this chapter shall be sent to the applicant or license holder by registered mail at the address provided on the license application. Notice shall be deemed received by the applicant or license holder 3 business days after mailing.

F. Each adult entertainment cabaret shall maintain on the premises of the adult entertainment cabaret and retain for a period of two years the names, addresses, home telephone numbers, social security numbers, and ages of each person employed or otherwise permitted to appear or perform on the premises as an entertainer, including independent contractors and employees. This information shall be available for inspection by the Finance Director or the Tukwila Police Department during the adult entertainment cabaret's regular business hours.

(Ord. 2575 §7, 2018; Ord. 2496 §28, 2016; Ord. 2355 §36, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.070 Lewd performance

Each adult entertainment cabaret and each operator, manager, entertainer and employee thereof shall comply with the following requirements:

1. No employee or entertainer shall be unclothed or in such attire, costume or clothing so as to expose to view any portion of the breast below the top of the areola, or any portion of the pubic hair, anus, buttocks, vulva and/or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

2. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, and/or buttocks, or any portion of the pubic hair, except upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

3. No employee or entertainer shall touch, fondle or caress any patron or other person for the purpose of arousing or exciting the patron's or other person's sexual desires.

4. No employee or entertainer shall allow a patron to touch an employee or entertainer on the breast, in the pubic area, buttocks, or anal area. No patron or other person shall touch, fondle or caress an employee or entertainer for the purpose of arousing or exciting the sexual desires of either party.

5. No entertainer performing upon any stage or in a performance area shall be permitted to accept any money offered for any purpose directly to the entertainer by any member of the public. Any money offered to any entertainer performing upon a stage or in a performance area must be provided through a manager on duty on the premises. Money shall not otherwise be exchanged between entertainers and members of the public. It is a gross misdemeanor for an entertainer to directly accept money from a member of the public or for a member of the public to directly give money to an entertainer while in an adult entertainment cabaret.

(Ord. 1747 §1 (part), 1995; Ord. 1604 §3, 1991; Ord. 1490 §2 (part), 1988)

5.56.080 Premises configuration requirements

Every adult entertainment cabaret shall be arranged in such a manner that:

1. Other than as set forth in TMC Section 5.56.080(2) below, adult entertainment shall occur only on a stage, at least 18 inches above the immediate floor level and at least six feet removed from the nearest patron. No members of the public shall be permitted on a stage or within six feet of a stage, while adult entertainment is in progress.

2. One-on-one entertainment, or other entertainment, occurring between an entertainer and a patron shall occur only in a designated performance area and at least four feet away from any patron. The perimeter of each performance area must, at all times, be clearly and completely delineated by a solid strip at least three inches wide in a contrasting color to the floor. Any seating in a performance area shall be arranged to face the stage and shall be permanently affixed to the floor. A strip at least two inches wide, and at least four feet long, in a contrasting color to the floor, shall, at all times, be affixed to the floor beginning at a point immediately under the center of the front edge of any seating in a performance area.

3. At least two licensed managers shall be on the premises of an adult entertainment cabaret at all times that the adult entertainment cabaret is open to the public, and shall be clearly identified at all times by means of a nameplate no less than ¾-inch high and three inches long which reads “ON DUTY MANAGER.” Such nameplate shall be conspicuously affixed to the manager’s clothing and clearly visible at all times. The names and licenses of the managers on duty shall be prominently posted and illuminated in an area open to the public during such managers’ shifts. The managers shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer’s license. At least one licensed manager shall have at all times a clear, continuous, and unobstructed view of all stages on which adult entertainment is permitted to occur, and of all performance areas. While on duty, no manager shall provide entertainment or adult entertainment.

4. No adult entertainment shall be visible at any time from outside an adult entertainment cabaret.

5. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times to a person of ordinary eyesight.

6. No interior walls shall be allowed, other than to segregate restrooms, employee dressing rooms, manager’s office, or other areas reasonably necessary to the business operation of the adult entertainment cabaret. No member of the public shall be allowed in any such segregated area, other than restrooms.

7. There shall be posted and conspicuously displayed in the common areas of each adult entertainment cabaret a sign, at least three feet long and two feet high, listing

any and all entertainment provided on the premises. Such list shall be printed in letters of sufficient size so that the list is clearly legible by persons of ordinary eyesight from any location where entertainment is provided. Such list shall further indicate the specific fee or charge in dollar amounts for each form of entertainment listed.

8. There shall be posted in each performance area a well illuminated and conspicuously displayed sign, at least three feet long and two feet high, listing the following:

“It is a crime for entertainers to:

1. Expose their breasts below the top of the areola, any portion of the pubic hair, buttocks, genitals or vulva and/or anus, except upon a stage; or

2. Touch, fondle, or caress a patron or other person for the purpose of sexual arousal; and

It is a crime for patrons or other persons to:

1. Touch, fondle, or caress any entertainer or other employee for the purpose of sexual arousal; and

2. Give directly to any entertainer, or for any entertainer to directly accept, any money from a member of the public, while on this premises.”

Such list shall be printed in letters of sufficient size so that the list is clearly legible by persons of ordinary eyesight from any location where entertainment is provided.

(Ord. 2575 §8, 2018; Ord. 1747 §1 (part), 1995; Ord. 1604 §3, 1991; Ord. 1490 §2 (part), 1988)

5.56.090 Revocation or suspension of licenses

A. The Finance Director may revoke any license under this chapter or may suspend any such license for a period of time not to exceed one year where one or more of the following conditions exist:

1. The license was procured by fraud, by a materially false or misleading representation of fact in the application or in any report or record required to be filed with the Finance Director; or

2. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of this chapter; or

3. The license holder, his or her employee, agent, partner, director, officer or manager has violated or permitted violation of any of the provisions of this chapter.

B. Upon determination that grounds for revocation or suspension of a license exist, the Finance Director shall send the license holder a notice of revocation or suspension by first class mail, postage prepaid. Such notice shall be effective upon the expiration of the ten-day appeal period set forth in TMC Section 5.56.100.A, unless a timely notice of appeal is filed as specified therein.

(Ord. 2575 §9, 2018; Ord. 2355 §37, 2011; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.100 Appeals

A. Upon notice of non-issuance, revocation or suspension of any license under this chapter, or imposition of any civil penalty under TMC Section 5.56.110, the applicant or license holder may appeal by filing a written notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Non-issuance, Denial, Suspension, Revocation, or Imposition of Penalties. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was 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. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City’s Hearing Examiner or other hearing body issues a written decision on the appeal. A warning notice to a manager, under TMC Section 5.56.110.A.1, shall not constitute the imposition of a penalty that is appealable under this section.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before a 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 or other hearing body for good cause shown. Notice of the hearing will be mailed to the applicant or licensee.

C. 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.

D. 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 or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2575 §10, 2018; Ord. 2496 §29, 2016; Ord. 2381 §9, 2012; Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.110 Violation

A. Strict civil liability for managers and operators. Managers of adult entertainment cabarets shall be strictly liable, as set forth below, for any violation of this ordinance committed by other employees or agents of the adult entertainment cabaret, while in the adult entertainment cabaret. These civil violations shall be known as “Permitting Lewd Performance”. Notice of any such violations shall be on a form prescribed by the Chief of Police.

1. During any time that a manager is on duty, the first violation committed by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a warning notice to such manager that he has committed the civil violation of Permitting Lewd Performance and that subsequent violations shall result in penalties pursuant to this section. Copies of any warning notices issued under this section shall also be sent or delivered to the operator(s).

2. During any time that a manager is on duty, the second violation committed within twelve consecutive months of the first, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory \$500 fine and a mandatory 60-day suspension of that manager’s license. Notice of this violation shall be sent or delivered to the operator(s).

3. During any time that a manager is on duty, the third violation committed, within twelve consecutive months of the first, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory \$1,000 fine and a mandatory 120-day suspension of that manager’s license. Notice of this violation shall be sent or delivered to the operator(s).

4. During any time that a manager is on duty, the fourth violation committed, within any period of twelve consecutive months, by any employee or agent of the adult entertainment cabaret, including but not limited to entertainers and managers, shall result in a mandatory civil penalty of a \$1,500 fine and a mandatory suspension of that manager’s license for 180 days. Notice of this violation shall be sent or delivered to the operator(s).

B. An operator of an adult entertainment cabaret shall be deemed to have the knowledge, and to be strictly liable for the conduct, of its licensed managers, as set forth below. These civil violations shall be known as “Facilitating Lewd Operations”. Notice of any such violations shall be on a form prescribed by the Chief of Police.

1. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of two or more civil violations of Permitting Lewd Performance during any 90-day period, the operator(s) shall be strictly liable for a civil penalty of \$1,000.

2. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of six or more civil violations of Permitting Lewd Performance, within any period of six consecutive months, the operator(s) shall be strictly liable for a civil penalty of \$2,500, and the adult entertainment cabaret license shall be suspended for a 14-day period.

3. If any one or more licensed managers of an adult entertainment cabaret are found to have committed a total of twelve or more civil violations of Permitting Lewd Performance, within any period of twelve consecutive months, the operator(s) shall be liable for a civil penalty of \$5,000 and the adult entertainment cabaret license shall be suspended for a period not less than 30 nor more than 90 days.

C. Any license suspension that extends beyond the end of a license year shall remain in effect, and any renewal license may be issued, but shall not be effective until the completion of the term of the license suspension.

D. Other than as specifically set forth in TMC 5.56.110A & B, any person who knowingly violates any of the other provisions of this chapter is guilty of a gross misdemeanor punishable by a fine not to exceed \$5,000 or imprisonment not to exceed 365 days, or both.

*(Ord. 2575 §11, 2018; Ord. 1747 §1 (part), 1995;
Ord. 1490 §2 (part), 1988)*

5.56.120 Civil remedies – Abatement

The violation of or failure to comply with any of the provisions of this chapter is unlawful and shall constitute a public nuisance. The City may seek legal or equitable relief to enjoin and/or abate any act or practice which constitutes or will constitute a violation of any regulation herein adopted.

*(Ord. 2575 §12, 2018; Ord. 1747 §1 (part), 1995;
Ord. 1490 §2 (part), 1988)*

5.56.130 Other remedies

The remedies provided herein for violations of or failure to comply with provisions of this chapter, whether civil or criminal, shall be cumulative and shall be in addition to any other remedy provided by law.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.140 Compliance with other ordinances

This chapter is separate and independent from other provisions of the Tukwila Municipal Code and does not relieve any person of the requirement:

1. To obtain a general business license under Chapter 5.04 of this code; or
2. To obtain any other permit or approval from the City under any provision of the Tukwila Municipal Code.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

5.56.150 No private right of action

Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any civil or criminal liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant or license holder to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter by the City or its officers, employees or agents. This section is specifically intended to include, but not be limited to, a complete grant of immunity from prosecution in favor of police officers and other City employees and agents engaged in covert or overt enforcement of this chapter.

(Ord. 1747 §1 (part), 1995; Ord. 1490 §2 (part), 1988)

CHAPTER 5.60

SAFETY IN OVERNIGHT LODGING

Sections:

- 5.60.010 Definitions
- 5.60.020 License required
- 5.60.030 Licensing requirements
- 5.60.040 Semi-annual calls for police service less than or equal to .25 per room
- 5.60.050 Semi-annual calls for police service greater than .25 per room and less than or equal to 1.00 per room
- 5.60.060 Semi-annual calls for police service greater than 1.00 per room
- 5.60.070 Enforcement
- 5.60.080 Appeals
- 5.60.090 Remedies cumulative

5.60.010 Definitions

When used in this chapter and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out in this section:

1. "Hotel" means a building or portion thereof designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

2. "Motel" includes tourist cabins, tourist court, motor lodge, auto court, cabin court, motor inn and similar lodgings. A motel is a building or buildings, detached or in connected units or designed as a single structure, the units of which are used as individual sleeping or dwelling units having their own private toilet facilities, and may or may not have their own kitchen facilities, and are designed primarily for the accommodation of transient automobile travelers. Accommodations for travel trailers are not included.

3. "Calls for service" includes any call the Tukwila Police Department receives from a hotel/ motel that must be responded to by a police officer. "Calls for service" shall not be counted when the Tukwila Police Department receives a call from a hotel/motel reporting an incident that did not directly occur at that hotel/motel.

4. "Police" means any authorized agent of the Tukwila Police Department or other law enforcement agency having jurisdiction.

5. "Police Department" means the Police Department of the City.

(Ord. 1918 §2, 2000)

5.60.020 License required

A. It is unlawful for any person, firm or corporation to conduct or operate a hotel or motel without first obtaining a business license pursuant to the provisions of this chapter.

B. All licenses issued pursuant to this chapter are non-transferable and valid for the calendar year in which issued unless otherwise revoked or suspended.

(Ord. 1918 §3, 2000)

5.60.030 Licensing requirements

A. It is unlawful for a person, firm, or corporation to conduct or operate a hotel or motel without having a license pursuant to RCW 70.62 and pursuant to the provisions of this chapter.

B. All hotels and motels may be issued a license under the provisions of this chapter. Based upon an individual hotel/motel's calls for service per room semi-annually, however, a hotel/motel must comply with additional requirements designed to deter crime in order to obtain or maintain its business license. The calls for service will be monitored from January 1 to June 30, and from July 1 to December 31, of each calendar year. Crime statistics for each hotel/motel will be kept on an annual basis from July 1 to June 30 of each calendar year. The time between June and December will allow hotels/motels time to comply with all the requirements of their group level necessary to receive a business license at year's end. The total number of calls for service from a given hotel/ motel for the accounting year will be divided by the total number of rooms in the hotel/motel, then divided by 2, to obtain the semi-annual number.

C. Each hotel/motel licensee will be notified of its semi-annual number of calls for service per room no later than July 31 of each calendar year. Any additional requirements placed on a hotel/motel under this chapter must be met or substantially in progress, as determined and verified by the Tukwila Police Department, before the next year's business license will be issued.

(Ord. 1918 §4, 2000)

5.60.040 Semi-annual calls for police service less than or equal to .25 per room

A. There are no additional requirements necessary to deter crime for hotels/motels whose semi-annual calls for service are less than or equal to .25 per room.

B. At the request of an establishment, the Tukwila Police Department will provide the hotel/motel with inspection services and advice concerning Crime Prevention Through Environmental Design Standards.

C. Hotels/Motels are encouraged to participate in a Tukwila Police Department-created and sponsored Hotel/Motel Manager's Network.

D. At the request of the hotel/motel, the Tukwila Police Department will provide training for the hotel/ motel staff, in cooperation with management, regarding the recognition of criminal or anti-social behavior.

E. At the request of the hotel/motel, the Tukwila Police Department will keep the hotel/motel management apprised of police activity that occurs on the property.

(Ord. 1918 §5, 2000)

5.60.050 Semi-annual calls for police service greater than .25 per room and less than or equal to 1.00 per room

Hotels/Motels whose semi-annual calls for service per room are greater than .25 or less than or equal to 1.00 are required to meet the following additional conditions, designed to deter crime, to obtain a license to operate in the City of Tukwila:

1. Have a representative available on the premises at all times.
2. Install and operate a surveillance camera (with recorder) in the lobby for 24 hours per day, seven days per week.
3. Undergo a Tukwila Police Department crime prevention assessment of their property to be conducted by the Tukwila Police Crime Prevention Unit.

(Ord. 1918 §6, 2000)

5.60.060 Semi-annual calls for police service greater than 1.00 per room

Hotels/Motels whose semi-annual calls for service per room are greater than 1.00 are required to meet the following additional requirements, designed to deter crime, to obtain a license to operate in the City of Tukwila:

1. Conform to the requirements set forth in TMC 5.60.050.
2. Provide the Tukwila Police with the names and dates of birth of all owners, managers and employees to allow for background checks.
3. Hold semi-annual employee training sessions, assisted by the Tukwila Police Department.
4. Provide 24-hour front desk personnel.
5. All guests who stay more than thirty days must fill out an Application for Tenancy (provided by the Tukwila Police Department).
6. Install and operate video monitoring equipment in all parking lots, monitored and recorded at the front desk 24 hours per day, seven days per week.
7. Install lighting in all common areas (minimum maintained 1.5 foot-candles at ground level).
8. Issue parking passes to all vehicles to be allowed to park on the premises with each pass marked with the issue date and expiration date.
9. Maintain a daily key log. Each key that is found to be missing must have its corresponding lock re-keyed prior to the room being rented. Each master key that is found to be

missing will require the establishment to re-key all corresponding locks.

10. Participate in the Tukwila Police Department “Criminal Trespass Program.” Participation shall mean the facility shall be registered in the “Criminal Trespass Program.”

11. Maintain the guestroom according to Uniform Health Code and Uniform Fire Code including tamper-resistant smoke detectors.

12. Report, repair/remove all graffiti and vandalism as quickly as possible.

13. Follow Crime Prevention Through Environmental Design (CPTED) standards for landscaping/plant maintenance. These standards will be provided by the Tukwila Police Department.

14. Enforce the following guest rules:

- a. Rooms cannot be rented for less than a 6-hour period.
- b. No room may be used for drunkenness, fighting or breaches of the peace. No room may be used if loud noises come from that room. Loud noises are those noises that disturb the tranquility of the neighborhood or those noises that would be disturbing to a reasonable person.
- c. Alcohol may not be consumed in common areas except for designated banquet or reception rooms or areas.

15. Submit to scheduled semi-annual audits by the City of Tukwila Police Department to verify compliance with the above-referenced requirements.

(Ord. 1918 §7, 2000)

5.60.070 Enforcement

If the Chief of Police finds that any licensee has violated or failed to comply with any provisions of this chapter, he/she shall make a written record of such finding and shall specify therein the particulars; and will inform the Tukwila Finance Director. Upon recommendation of the Chief of Police, the Finance Director may revoke, suspend, or refuse to issue the City of Tukwila license for that business for a period not less than 90 days or not more than 1 year. This determination shall be made in consultation with the Police Chief and shall be based on the severity of the violation(s).

(Ord. 2355 §38, 2011; Ord. 1918 §8, 2000)

5.60.080 Appeals

A. The applicant or license holder may appeal the decision of the Finance Director, to suspend, deny or revoke a business license by filing a notice of appeal with the City Clerk within 10 calendar days following receipt of the Notice of Suspension, Non-issuance or Revocation. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the decision to suspend, deny or revoke was incorrect. The appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council. A timely notice of appeal shall stay the effect of the notice of non-issuance or revocation until the City's Hearing Examiner or other hearing body issues a written decision on the appeal.

B. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner or other hearing body. 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 or other hearing body for good cause shown.

C. 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.

D. 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 or other hearing body shall issue a written decision, which shall set forth the reasons therefor.

(Ord. 2496 §30, 2016; Ord. 1918 §9, 2000)

5.60.090 Remedies cumulative

The remedies provided for herein for failure to comply with this chapter shall be cumulative and in addition to any other remedy at law or equity.

(Ord. 1918 §10, 2000)

CHAPTER 5.61**RETAIL CARRYOUT BAGS****Sections:**

- 5.61.010 Definitions
 5.61.020 Carryout Bag Regulations
 5.61.030 Exemptions
 5.61.040 Violation - Penalty

5.61.010 Definitions

A. "Carryout bag" means any bag that is provided by a retail establishment at home delivery or at the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases. Carryout bags do not include:

1. Bags used by consumers inside stores to:
 - a. Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;
 - b. Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:
 - (1) Frozen foods;
 - (2) Meat;
 - (3) Fish;
 - (4) Flowers; and
 - (5) Potted plants;
 - c. Contain unwrapped prepared foods or bakery goods;
 - d. Contain prescription drugs; or
 - e. Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or
 - f. Newspaper bags, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

B. "Recycled content paper bag" means a paper carryout bag that is:

1. Composed of a minimum of 40% post-consumer recycled material;
2. Accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the City;
3. Capable of composting, consistent with the timeline and specifications of the American Society of Testing and Material (ASTM) Standard D6400, as published in Master Environmental Assessment on Single Use and Reusable Bags, March 2010; and
4. Printed with an exterior label indicating the minimum percentage of post-consumer recycled content.

C. "Pass-through charge" means a charge to be collected by retailers from their customers when providing recyclable paper bags and reusable carryout bags made of film plastic, and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

D. "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual in the City of Tukwila that sells or provides merchandise, goods or materials directly to a consumer. Retail establishment includes, without limitation, any grocery store, supermarket, department store, hardware store, pharmacy, liquor store, restaurant, catering truck, home delivery, convenience store, gasoline station, temporary stores, and any other retail store or vendor, including temporary ones at farmers markets, street fairs, and festivals.

E. "Reusable bag" means a carryout bag made of cloth, or other durable material, with handles that is specifically designed and manufactured for long-term multiple reuse and meets the following requirements:

1. Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet;
2. Is machine washable or made from a durable material that can be cleaned or disinfected; and
3. If made of film plastic, is a minimum of at least two and one-fourth mils thick.

F. "Single-use plastic bag" means any carryout bag that is less than two and one-fourth (2.25) mils thick and is designed and suitable only to be used once and disposed.

(Ord. 2619 §2, 2019)

5.61.020 Carryout Bag Regulations

A. Except as provided in TMC Sections 5.61.020 and 5.61.030, a retail establishment may not provide to a customer:

1. A single-use plastic bag; or
2. A paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (882 cubic inches) or larger that is not a recycled content paper bag.

B. A retail establishment may provide a recycled content paper carryout bag or reusable carryout bag of any size to a customer at the point of sale.

1. Any retail establishment that provides a customer with a recycled content paper carryout bag or a reusable carryout bag made of film plastic shall collect and retain a pass-through charge of not less than \$0.08 for each bag provided. This is a taxable retail sale that must be shown on all receipts provided to customers.

2. A retail establishment may make reusable bags available to customers through sale or otherwise.

(Ord. 2619 §3, 2019)

5.61.030 Exemptions

A. No retail establishment may collect a pass-through charge from anyone using a voucher or electronic benefits card issued under programs including, but not limited to, Women Infants and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).

B. Food banks and other food assistance programs are exempt from the requirements of this chapter but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

(Ord. 2619 §4, 2019)

5.61.040 Violation – Penalty

A. Violations of the provisions of this chapter constitute a Class I civil infraction pursuant to Chapter 7.80 RCW. Each day of any violation is a separate civil infraction.

B. Issuance and disposition of infractions for violations of this chapter are subject to enforcement as prescribed in TMC Chapter 8.45.

C. It shall be a violation of this chapter for any retail establishment to penalize, discipline, or discriminate against any employee for performing any duty necessary to comply with this chapter.

(Ord. 2619 §5, 2019)

CHAPTER 5.62

REVENUE GENERATING REGULATORY LICENSES

Sections:

5.62.010 Regulatory Licenses

This Chapter was repealed by Ordinance No. 2356 November 2011.