

Final Revised version of the City model ordinance (Administrative Provisions) for business license tax. Dated October 2007.

CHAPTER ____.
Administrative Provisions For _____ Taxes

.010 Purpose.

CITIES WILL INSERT PURPOSE LANGUAGE

.015 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under chapters _____ and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

.020 Definitions. For purposes of this chapter:

The definitions contained in chapter _____ (tax portion of model ordinance) shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply.

"Reporting period." "Reporting period" means:

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

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

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

"Tax year," "taxable year." "Tax year" or "taxable year" means the calendar year.

.021 Definitions -- References to Chapter 82.32 RCW

Where provisions of Chapter 82.32 RCW are incorporated in _____ **[insert city code reference to section .090]** of this Title, "Department" as used in the RCW shall refer to the "Director" as defined in _____ **[insert city code reference to section .030 of the model ordinance – some cities may need to add definition to their .030 provisions from the guidelines]** and "warrant" as used in the RCW shall mean "citation or criminal complaint."

.025 Registration/license requirements.

CITIES WILL INSERT REGISTRATION/LICENSE REQUIREMENTS LANGUAGE

.030 Registration/license certificates.

CITIES WILL INSERT THEIR OWN REGISTRATION/LICENSES CERTIFICATE LANGUAGE.

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

(1) Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

(2) Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

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

(4) For purposes of the tax imposed by chapter _____ (tax portion of model ordinance), any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than **(1st OPTION:** Twenty Thousand Dollars (\$20,000) (or higher threshold as determined by city) in the current calendar year) **-or-** **(2nd OPTION:** Five Thousand Dollars (\$5,000) (or higher threshold as determined by the city) in the current quarter), shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due. **(Subsection (4) is mandatory)**

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

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

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

and fees due; the total of such amounts shall thereupon become immediately due and payable.

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

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

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

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

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

(5) For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

(6) Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of twenty dollars (\$20.00) is received by the Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the twenty dollars (\$20.00) NSF fee) is received.

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

.060 Records to be preserved - Examination - Estoppel to question assessment.

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories,

stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

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

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

.070 Accounting methods.

(1) A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

(2) The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

.080 Public work contracts - Payment of fee and tax before final payment for work.

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

.090 Underpayment of tax, interest, or penalty – Interest.

(1) If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional

amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Director may provide in writing.

(2) (a) **CITIES WILL INSERT LANGUAGE IN THIS SUBSECTION FOR INTEREST DUE FOR PERIODS PRIOR TO EFFECTIVE DATE OF THE 2004 ORDINANCE.**

(b) For tax periods after December 31, 2004 the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

(c) If _____ [insert city code reference to .090 2(b)] is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply. ~~(Interest imposed after the effective date of this ordinance, shall be computed from the last day of the month following the end of the reporting period and will continue to accrue until payment is made. In case of an audit the interest shall be computed from the first day of the month following each calendar year or portion thereof included in the audit period.~~

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

Legislative intent information

Cities have interpreted RCW 35.102 interest provisions to apply prospectively to tax periods after the effective date of the model ordinance. For taxes and interest due for tax periods prior to the effective date of the 2004 ordinance, the cities will apply interest provisions from their own code in effect during that tax period. Subsection (b) permanently links statute to RCW to incorporate 2006 changes and any future changes.

.095 Time in which assessment may be made.

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

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

.100 Over payment of tax, penalty, or interest - Credit or refund - Interest rate - Statute of limitations.

(1) If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be

credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection (2) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four (4) years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

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

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

(4) Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the Director a certified copy of the order or judgment of the court.

(5) (a) **CITY WILL INSERT REFUND INTEREST LANGUAGE COVERING PERIODS PRIOR TO THE ORDINANCE EFFECTIVE DATE HERE.**

(b) For tax periods after December 31, 2004 the Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.

(c) If _____ [insert city code reference to .100(5)(b)] is held to be invalid, then the provisions of RCW 82.32.060 existing at the effective date of this ordinance shall apply. ~~((Interest on overpayments of taxes for periods beginning on or after January 1, 2005, shall be the average federal short term interest rate as outlined for assessments under .090(2)(c) plus two (2) percentage points.))~~ **(Mandatory)**

Legislative intent information

Cities have interpreted RCW 35.102 refund interest provisions to apply prospectively to tax periods after the effective date of the model ordinance. For refund interest due for tax periods prior to the effective date of the 2004 ordinance, the cities will apply refund interest provisions from their own code in effect during that tax period. Subsection (b) permanently links statute to RCW to incorporate 2006 changes and any future changes.

.110 Late payment - Disregard of written instructions - Evasion - Penalties.

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended~~((equal to five (5) percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, the Director shall add a total penalty equal to fifteen (15) percent of the amount of the tax; and if the tax is not received on or before the last day of the second month following the due date, the Director shall add a total penalty equal to twenty-five (25) percent of the amount of the tax. No penalty assessed herein shall be less than Five Dollars (\$5.00))).~~

~~(2) If ((a tax deficiency is assessed by)) the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended equal to five (5) percent of the amount of the deficiency. If payment of any tax deficiency assessed by the Director is not received by the due date specified in the notice, or any extension thereof, the Director shall assess a penalty equal to fifteen (15) percent of the amount of the additional tax found due. If payment of any tax deficiency assessed by the Director is not received on or before the thirtieth day following the due date specified in the notice, or any extension thereof, the Director shall assess a penalty equal to twenty-five (25) percent of the amount of additional tax found due. No penalty added shall be less than Five Dollars (\$5.00).~~

(3) If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended~~((of ten (10) percent of the amount due, but not less than Ten Dollars (\$10)))~~.

(4) If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Director a license as required by _____, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be Amended~~((of five (5) percent of the amount of tax due from that person for the period that the person was not licensed))~~. No penalty shall be imposed under this subsection (4) if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.

(5) If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended~~((of ten (10) percent of the amount of the additional tax due.~~

~~(a) A taxpayer fails to follow specific written tax reporting instructions when the Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the Director has not issued final instructions because the matter is under appeal pursuant to this chapter. The Director shall not assess the penalty under this subsection (5), upon any taxpayer that has made a good faith effort to comply with the specific written instructions provided by the Director to that taxpayer.~~

~~(b) Specific written instructions may be given as a part of a tax assessment, audit, determination or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents.~~

~~(c) Any specific written instructions by the Director shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection))~~.

(6) If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended~~((of fifty (50) percent of the additional tax found to be due))~~.

(7) The penalties imposed under subsections (1) through (5) above of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(8) ~~((The penalties authorized by subsections (5) and (6) of this section shall be assessed in accordance with the provisions of this chapter governing assessment of tax deficiencies.))~~ The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

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

(10) If incorporation into the City of _____ code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

(Mandatory)

.120 Cancellation of penalties.

(1) The Director may cancel any penalties imposed under subsections .110 (1) if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection (3).

(2) A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

(3) The Director may cancel the penalties in subsections .110 (1) one time if a person:

- (a) Is not currently licensed and filing returns,
- (b) Was unaware of its responsibility to file and pay tax, and
- (c) Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.

(4) The Director shall not cancel any interest charged upon amounts due.

.130 Taxpayer quitting business - Liability of successor.

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

(2) Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: a) the taxpayer shall

produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or b) more than six (6) months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

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

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

THE FOLLOWING ARE SUGGESTED APPEAL PROCEDURES. INDIVIDUAL CITIES MAY ADOPT PROVISIONS SIMILAR TO THESE OR DEVELOP THEIR OWN PROCEDURES (WE ENCOURAGE CITIES TO CHECK WITH OTHER CITIES AND THE RCW):

.140 Administrative Appeal.

Any person, except one who has failed to comply with section .060, aggrieved by the amount of the fee or tax determined by the Director to be required under the provisions of this chapter may [Optional pay the amount due and] appeal from such determination by filing a written notice of appeal with the _____ (City Clerk, Hearing Examiner, City Council, etc) within 30 days from the date written notice of such amount was mailed to the taxpayer. **[NOTE: The option language above allows the city to demand payment of the amount assessed before any appeal process. If the option is not used, then payment cannot be demanded before the administrative appeal process is completed]** [This following sentence is also Optional if you have a filing fee that must be paid before a person can make an administrative appeal-- A \$____ filing fee shall be submitted with the appeal, which filing fee is required to process the appeal.] The (***city official charged with hearing appeals***) shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The hearing shall be conducted in accord with the provisions of (***applicable city ordinance***). The decision of the (***city official charged with hearing appeals***) shall indicate the correct amount of the fee or tax owing.

.150 Judicial Review of Administrative Appeal Decision. [NOTE: This option is used if the hearing examiner's (or other official charged with hearing appeals) review is used to establish the facts of the case and the court reviews the hearing examiner's (or other official charged with hearing the appeal), determination, rather than the Director's determination.]

The taxpayer or the City may obtain judicial review of the (***city official charged with hearing appeals***)'s administrative decision by applying for a Writ of Review in the _____ County Superior Court within ____ days from the date of the (***city official charged with hearing appeals***)'s decision in accordance with the procedure set forth

in Chapter 7.16 RCW, other applicable law, and court rules. The City shall have the same right of review from the administrative decision as does a taxpayer.

.150 Judicial Review of Director's Determination. [NOTE: This option is used if the (*official charged with hearing appeals*)'s determination does not establish the record and either the city or the taxpayer wants to conduct a trial and establish the facts of the case at the Superior Court level. This option in turn is broken down into two more options based on whether or not the taxpayer must exhaust the right of an administrative appeal prior to going to court.]

[Option A-taxpayer has to exhaust]. Any person, except one who has failed to comply with section .060, having paid any tax as required and feeling aggrieved by the amount of the tax assessed, and after first exhausting the right of administrative appeal set forth in this chapter, may seek judicial review in the _____ County Superior Court within 21 days of the date of the decision of the (*city official charged with hearing appeals*). The taxpayer shall set forth the amount of the tax imposed upon the taxpayer that the taxpayer concedes to be the correct amount of tax and the reason why the tax imposed should be reduced or abated. The trial in the Superior Court shall be de novo in accordance with the laws of the State of Washington. The burden shall rest upon the taxpayer to prove that the tax paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax.

[Option B-does not have to exhaust]. Any person, except one who has failed to comply with section .060, having paid any tax as required and feeling aggrieved by the amount of the tax assessed, may seek judicial review in the _____ County Superior Court within 21 days of the date of the written notice of the Director's determination. The taxpayer shall set forth the amount of the tax imposed upon the taxpayer that the taxpayer concedes to be the correct amount of tax and the reason why the tax imposed should be reduced or abated. The trial in the Superior Court shall be de novo in accordance with the laws of the State of Washington. The burden shall rest upon the taxpayer to prove that the tax paid by the taxpayer is incorrect, either in the whole or in part, and to establish the correct amount of the tax.

.160 Director to make rules.

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

.170 Ancillary allocation authority of Director.

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

- (1) To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of _____, another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;
- (2) To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross

receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.

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

.180 Mailing of Notices.

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

.190 Tax declared additional.

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

.200 Public disclosure - Confidentiality - Information sharing.

EACH CITY SHOULD DEVELOP ITS OWN PUBLIC DISCLOSURE REQUIREMENTS. THE FOLLOWING CONTAINS SUGGESTED LANGUAGE:

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

(a) "Disclose" means to make known to any person in any manner.

(b) "Tax information" means:

(i) A taxpayer's identity;

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

(iii) Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

(iv) Other data received by, recorded by, prepared by, or provided to the Director with respect to a taxpayer.

PROVIDED, That tax information shall not include data, material, or documents that do not disclose information related to a specific or identifiable taxpayer.

(2) Tax returns and information may be "public records" as that term is defined in RCW 42.17.020. The Director shall not disclose tax information if disclosure would violate RCW Chapter 42.17 or any other law prohibiting disclosure.

(3) Tax information may be disclosed to the following:

(a) The Mayor, City Manager, members of the City Council, City Attorney, City Clerk, or their authorized designees, for official purposes;

(b) Any agency or officer of the United States of America, the State of Washington, or a tax department of any state, county, city or town, provided that the agency or officer grants substantially similar privileges to the City, and further provided that the agency or officer shall not further disclose the tax information except as authorized in this section.

(c) The taxpayer to whom it pertains or to such person or persons as the taxpayer may designate in writing as the taxpayer's designee; except that tax information not received from the taxpayer shall not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the Director that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court.

(4) Nothing in this section shall prevent the use of tax information by the Director or any other agency in any civil or criminal action involving any license, tax, interest, or penalty.

(5) A person disclosing tax information to a person not entitled to receive that information under this section is guilty of a misdemeanor, and if the person violating this privacy requirement is an officer or employee of the City, such person may be required to forfeit their office or employment.

.210 Tax constitutes debt.

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

.220 Unlawful actions - Violation - Penalties.

(1) It shall be unlawful for any person liable for fees under this chapter (or other chapters as listed):

(a) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Director;

(b) To make any false statement on any license application or tax return;

(c) To aid or abet any person in any attempt to evade payment of a license fee or tax;

(d) To fail to appear or testify in response to a subpoena issued pursuant to _____;

(e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter.

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

(3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be

punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

**.230 Suspension or Revocation of business registration [license].
EACH CITY SHOULD DEVISE ITS OWN REVOCATION PROCEDURES THAT
MATCH YOUR REGISTRATION AND LICENSE PROCEDURES. The following
contains suggested language.**

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

- (a) The license was procured by fraud or false representation of fact.
- (b) The licensee has failed to comply with any provisions of this (title)_____.
- (c) The licensee has failed to comply with any provisions of the (city code)_____.
- (d) The licensee is in default in any payment of any license fee or tax under _____.
- (e) The licensee or employee has been convicted of a crime involving the business.

(2) Any licensee may, within ____ days from the date that the suspension or revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing a written notice of appeal ("petition") setting forth the grounds therefor with the _____. A copy of the petition must be provided by the licensee to the Director and the City Attorney on or before the date the petition is filed with the (**city official charged with hearing appeals**). The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in (**appropriate code provision**). The (**city official charged with hearing appeals**) shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the (**city official charged with hearing appeals**) shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the suspension or revocation and reinstate the license, and may impose any terms upon the continuance of the license.

No suspension or revocation of a license issued pursuant to the provisions of this subchapter shall take effect until _____ days after the mailing of the notice thereof by the Department, and if appeal is taken as herein prescribed the suspension or revocation shall be stayed pending final action by the (**city official charged with hearing appeals**). All licenses which are suspended or revoked shall be surrendered to the City on the effective date of such suspension or revocation.

The decision of the (**city official charged with hearing appeals**) shall be final. The licensee and/or the Department may seek review of the decision by the Superior Court of Washington in and for _____ County within _____ days from the date of the decision. If review is sought as herein prescribed the suspension or revocation shall be stayed pending final action by the Superior Court.

(3) Upon revocation of any license as provided in this subchapter no portion of the license fee shall be returned to the licensee.

.240 Closing agreement provisions. (Optional)

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

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

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

.250 Charge-off of uncollectible taxes. (Optional)

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer. [Charge-offs in excess of \$_____ require [City Council] approval.]

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