

**TITLE 3**  
**BUSINESS REGULATIONS**

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## CHAPTER 1

**BUSINESS LICENSES; PURPOSE AND POLICY**

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3-1-1: **DEFINITIONS:** For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

**BUSINESS:** All activities, occupations, pursuits, or professions located and/or engaged in within the City with the object of gain, benefit, or advantage to the licensee or to another person or class, directly or indirectly, whether part-time or full-time. Each business location shall be deemed a separate business. Utility companies are defined as businesses.

**CLERK/TREASURER:** The City Clerk/Treasurer or his/her designee of the City of Toledo.

**LICENSE:** Means and includes and shall be used interchangeably with the term "permit", and shall mean the official approval or authorization of the City to engage in business or to carry on or conduct a special event within the corporate limits of the City for which a license or permit is required pursuant to the provisions of this Chapter.

**PERSON:** Any individual, firm, partnership, company, corporation, association, receiver, assignee, trust, estate, joint venture, group joint stock company, business trust, society or any group of individuals acting as a unit.

**PREMISES:** Includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-2: REQUIREMENTS:** It is unlawful for any person, firm, or corporation to engage in or carry on within the City any business, profession, trade, or occupation designated in this Chapter without first having obtained from the City a license to do so. All licenses issued pursuant to the provisions of this Chapter shall be posted in a prominent location at the premises where the licensed business, profession, trade, or occupation is carried on. In addition to the business license other permits or licenses may be required for certain businesses. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-3: NOT-FOR-PROFIT EXEMPTIONS:** All businesses operated not-for-profit shall be exempt from paying a business license fee upon application and satisfactory proof to the City Clerk/Treasurer of said not-for-profit status. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-4:       **LICENSES NOT TRANSFERABLE:** No license issued under the provisions of this Chapter shall be transferable or assignable. When a business changes ownership, or upon substantial change in the type of business operated, a new business license shall be required. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-5:       **DISCLAIMER OF CITY LIABILITY:** 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 his agents, employees, or representatives, even if specific regulations require standards of training, conduct, or inspection. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-6:       **PROHIBITED USE:** A license hereunder shall not be issued to any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the City or of the statutes of the State. The granting of a business license shall in no way be constructed as permission or acquiescence in a prohibited activity or other violation of the law. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-7:       **GENERAL QUALIFICATIONS OF LICENSEES:** No license shall be issued, nor shall any license be renewed, pursuant to the provisions of this Chapter to:

- A.   An applicant who is not eighteen (18) years of age at the time of the application, unless he shall obtain the written consent of said applicant's parent or guardian to make said application, together with a covenant on behalf of said parent or guardian that he or she will be responsible for a guarantee of performance of the minor making application;
- B.   An applicant who has had a similar license revoked or suspended, pursuant to Section 3-1-13 of this Chapter or its predecessor;
- C.   An applicant who shall not first comply with the general laws of the State;

- D. An applicant who seeks such a license in order to practice some illegal act or some act injurious to the public health or safety;
- E. Any person who is not qualified under any specific provision of this Title for any particular license for which application is made.

Any person, including City officials, may submit complaints or objections to the City Clerk/Treasurer regarding the application for any license, and the City license officer is additionally authorized to request and receive information from all City departments as will tend to aid him in determining whether to issue or deny the license. Such information shall be confidential unless a hearing is requested on the application, or if the applicant shall request the information in writing. All information, complaints, or objections shall be investigated and considered by the City Clerk/Treasurer prior to issuing, denying, or renewing any license. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-8: APPLICATION PROCEDURE:**

- A. The City Clerk/Treasurer is authorized to prepare a schedule of fees for general business licenses issued, and when approved by the City Council by ordinance, such schedule shall govern the amount of the license fee.
- B. Application for a business license shall be made at the office of the City Clerk/Treasurer on a form to be furnished for that purpose and shall be accompanied by the proper fee. Each such application shall be signed by the person, or other authorized representative of the firm or corporation to be licensed. If the application is denied, the fee shall be returned to the applicant.
- C. No license shall be issued until the application has been fully completed and all applicable ordinances have been fully complied with. In addition, any business requiring a State or Federal license shall obtain said licenses and provide the City with proof of their issuance prior to the issuance of a City business license or any renewal thereof.
- D. Business licenses shall be granted annually, and due January 1. If a new business application is made within six (6) months of the date fixed for expiration, the fee shall be one-half ( $1/2$ ) the annual fee. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-9:       **EXEMPTIONS:** The provisions of this Chapter shall not apply to nor affect the following persons, sales, or services:

- A.   Garage sales, lawn sales, attic sales, rummage sales, flea market sales, or any other similar casual sale of tangible personal property conducted on an infrequent basis not to exceed three (3) times per each calendar year and which is advertised by any means whereby the public at large is or can be made aware of such sale;
- B.   Persons selling personal property or providing a service pursuant to an order or process of a court of competent jurisdiction;
- C.   Persons acting in accordance with their powers and duties as public officials;
- D.   Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement in which separate items do not exceed five (5) in number;
- E.   Persons, sales, or services arising out of Toledo Cheese Days within the City, or any other community event determined by the Clerk/Treasurer to be exempt from the requirements of this Chapter. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-10:       **RENEWAL:** Applications for renewal of business licenses must be completed and returned to the City Clerk/Treasurer, together with the renewal fee, prior to January 1 of each year. The City Clerk's office shall send a renewal notice to each licensee at the last address provided to the City. Failure of the licensee to receive any such form shall not excuse the licensee from making application for and securing the required renewal license, or from payment of the license fee when and as due hereunder. A business license shall expire on December 31 of the year following issuance, if not renewed as described herein. A penalty of five dollars (\$5.00) per month, which shall not be prorated, shall be assessed on any delinquent license renewal which has not been paid on or before March 1 of any year. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-11:       **LICENSES FOR BUSINESSES LOCATED OUTSIDE CITY LIMITS:** Businesses located outside the City which furnish or perform services within the City limits, and which conduct business during more than thirty (30) calendar days within a calendar year, shall hereafter

apply and pay for a business license. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-12:       **LICENSE APPROVAL OR DENIAL:** The City Clerk's office shall collect all business license fees and shall issue business licenses to all persons who submit an application, pay the fee and are qualified under the requirements of this Chapter and shall:

- A.     Submit all applications to the Planning Department, Building Division, Public Works Department and Police Department for their endorsements as to compliance by applicant with all City regulations which they have the duty of enforcing.
- B.     Upon approval of the application, the license shall be issued and delivered to the applicant.
- C.     No business license shall issue if any of the conditions listed in subsections 3-1-13A1 through A6 of this Chapter exist or apply to the license applicant or premises proposed to be licensed.
- D.     The City Clerk/Treasurer shall notify the applicant in writing by certified mail of the denial of the application and the grounds therefor. Within ten (10) calendar days after receipt of the City's notification of application denial, the applicant may request an appeal and hearing before the hearing examiner, by filing a written notice of appeal and paying the hearing examiner filing fee. The City Clerk's office shall notify the applicant by mail of the time and place of the hearing. If request for hearing is not received within the time specified, the City Clerk/Treasurer's decision shall be final. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-13:       **SUSPENSION OR REVOCATION PROCEDURE:**

- A.     In addition to the other penalties provided herein or by law, any business license issued under the provisions of this Chapter may be revoked or suspended, should any or all of the following conditions apply:
  - 1. The license was procured by fraud, false representation, or material omission of fact; or

2. The licensee or any of its employees, officers, agents, or servants, while acting within the scope of their employment, violates or fails to comply with any of the provisions of this Chapter; or
  3. The licensee's continued conduct of the business for which the license was issued has or will result in a danger to the public health, safety or welfare, or the violation of any Federal or State law or any ordinance or regulation of the City; or
  4. The licensee, or any of its employees, officers, agents or servants has been convicted in any court of violating any Federal, State or City criminal statute or ordinance upon the business premises stated in the license; or
  5. The place of business does not conform to City ordinance; or
  6. The license is being used for a purpose different from that for which it was issued.
- B. If the City Clerk's office has reasonable cause to believe that any of the conditions listed in subsections A1 through A6 of this Section have occurred or exist with respect to any existing business license, licensee or licensed premises, the City Clerk/Treasurer shall send a notice to the licensee of a hearing to be held before the City Council, for the purpose of determining whether these conditions have occurred, and whether a revocation or suspension hearing is warranted under the circumstances. Such notice shall state the conditions listed in subsections A1 through A6 of this Section that the City Clerk/Treasurer has reason to believe exist or have occurred, and shall also contain the date and time of the City Council hearing at which the issue will be considered. Notices to the licensee of the hearing shall be given by certified mail at least fourteen (14) days prior to the date of the hearing. At the hearing, the licensee shall have an opportunity to present evidence and testify in opposition to any evidence or information submitted or presented by the City Clerk/Treasurer.
- C. If the Council decides at the predetermination hearing described in subsection B of this Section that the conditions listed in subsections A1 through A6 of this Section have occurred or exist with respect to a licensee, its employees, officers, agents or premises, the Council may direct the City Clerk/Treasurer to send notice to the licensee of a hearing to be held on the issue whether the business license of the licensee or licensed premises shall be revoked or suspended. Said notice shall state the intention of the City to revoke or suspend said

license, the reason for such suspension or revocation, and the date and time of the meeting of the City Council at which such will be considered. The licensee shall have the right to appear at said meeting to present evidence and testify in opposition to such revocation or suspension. Such notice shall be given by certified mail to the licensee at least fourteen (14) days prior to the date of said hearing.

- D. If the Council decides at the predetermination hearing described in subsection B of this Section that the conditions listed in subsections A1 through A6 of this Section have occurred or exist with respect to a licensee, its employees, officers, agents or premises, the Council may, as an alternative to setting a date for a revocation or suspension hearing, request that the City Clerk/Treasurer address the conditions through the enforcement procedures set forth in Sections 3-1-15 through 3-1-19 of this Chapter.
- E. Upon revocation of any license as provided in this Chapter, no portion of the license fee shall be returned to the licensee.
- F. The City Council's decision on such business license shall represent the final action by the City, unless an appeal is made to the Superior Court of Lewis County, within ten (10) working days of such decision.
- G. It is unlawful for any person whose license has been revoked or suspended to continue operation of the business enterprise, or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the City Clerk's office. When revoked, the license shall be canceled, and when suspended, the City Clerk/Treasurer shall retain it during the period of suspension. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-14: **EXERCISE OF POWER:** This Chapter shall be deemed an exercise of the power of the City to license for revenue and regulation, and nothing in this Chapter shall be construed to repeal or affect any other ordinance of the City which purports to regulate some business or activity pursuant to the general police power of the City, notwithstanding the fact that such ordinance may or might contain provisions relating to the licensing of such activity. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-15: INSPECTIONS; RIGHT OF ENTRY:**

- A. The City Clerk's office is authorized to make such inspections and take such action as may be required to enforce the provisions of this Chapter.
- B. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the City Clerk/Treasurer has reasonable cause to believe that a licensee is operating in violation of this Chapter, the license officer may enter the licensee's place of business at all reasonable times to inspect the same or perform any duty imposed on the license officer by this Chapter, provided that:
  - 1. If the place of business is occupied, the license officer shall first present proper credentials and demand entry; and
  - 2. If the place of business is unoccupied, the license officer shall first make a reasonable effort to locate the licensee or other persons having charge or control of the place of business and demand entry; and
  - 3. If entry is refused, the City Clerk's office shall have recourse to the remedies provided by law to secure entry. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-16: NOTICE AND ORDER:**

- A. Issuance: The City Clerk's office shall issue a notice and order, directed to the licensee or owner of the premises determined to be in violation of any of the terms and provisions of this Chapter. The notice and order shall contain:
  - 1. The street address, when available, and a legal description sufficient for identification of the premises upon which the violation has occurred;
  - 2. A statement that the City Clerk's office has found the conduct of the licensee or condition of the premises to be in violation of this Chapter, with a brief and concise description of the conditions found to render such licensee or premises in violation;
  - 3. A statement of any action required to be taken to comply with this Chapter, as determined by the City Clerk/Treasurer. If the City Clerk's office has determined to assess a civil penalty, the order

shall require that the penalty shall be paid within a time certain from the date of order;

4. A statement of any action taken by the City Clerk's office;

5. Statements advising: a) that the person may appeal from the notice and order to the City Hearing Examiner, provided that the appeal is made in writing as provided in this Chapter and filed with the City Clerk's office within fifteen (15) days from the date of service of such notice and order; and b) the failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

- B. Method Of Service: The notice and order shall be served upon the licensee either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to such licensee at his/her address as it appears on the most recently issued business license. The failure of any person to receive such notice shall not affect the validity of any proceedings taken under this Section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- C. Appeals: Appeals of any notice and order and any penalty imposed hereunder may be brought by any person entitled to service of the notice and order within fifteen (15) calendar days after service of the notice and order. Such requests for an appeal and hearing shall be filed with the City Clerk's office and be accompanied by the hearing examiner filing fee.

The City Clerk's office shall notify the applicant by mail of the time and place of the hearing before the Hearing Examiner. (Ord. 604, 12-21-1998, eff. 12-29-1998)

**3-1-17: CIVIL PENALTY:**

- A. In addition to or as an alternative to any other penalty provided herein or by law, civil penalties shall be assessed against any licensee or person who violates any provision of this Chapter as follows:

1. Operation Of Business Without A License: The penalty for operation of a business without a license shall be assessed by the City police officer in an amount not to exceed five hundred dollars (\$500.00). This penalty shall not apply to business enterprises failing

to pay the license renewal fee as set forth in subsection A2 of this Section.

2. Operation Of Business After License Expiration: Failure to pay the license fee within thirty (30) days after the date of expiration shall subject the licensee to the penalty set forth in Section 3-1-10 of this Chapter to reinstate the license, which shall be assessed in addition to the required license fee.

3. Violations Of The Business Licenses Ordinance: The penalty for violations of this Chapter shall be assessed by the City police officer in an amount not to exceed five hundred dollars (\$500.00).

- B. The City license officer may vary the amount of the penalty to be assessed in subsections A1 and A3 of this Section, upon consideration of the appropriateness of the penalty to the size of the business of the violator; the gravity of the violation; the number of the past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-18: **CRIMINAL PENALTIES:** Any person violating or failing to comply with any of the provisions of this Chapter and who has had a civil penalty entered against him or her pursuant to Section 3-1-17 of this Chapter within the past five (5) years, shall be subject to criminal prosecution and upon conviction of a subsequent violation, shall be fined in a sum not exceeding one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed ninety (90) days. Each day of noncompliance with any of the provisions of this Chapter shall constitute a separate offense. (Ord. 604, 12-21-1998, eff. 12-29-1998)

3-1-19: **ADDITIONAL RELIEF:** The City Clerk's office may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this Chapter when civil or criminal penalties are inadequate to effect compliance. (Ord. 604, 12-21-1998, eff. 12-29-1998)

## CHAPTER 2

**LIGHT WINES AND BEER**

## SECTION:

- 3-2-1: Definitions
- 3-2-2: License Required, Fee
- 3-2-3: Sale By Package, Glass
- 3-2-4: License Restrictions
- 3-2-5: Revocation
- 3-2-6: Drinking In Public
- 3-2-7: Penalty

3-2-1: **DEFINITIONS:**

**DISTRIBUTOR:** As used herein shall mean, refer to and include persons, firms or corporations who sell and distribute nonintoxicating alcoholic beverages to persons regularly licensed hereunder to sell the same at retail including hotels, restaurants and beverage dispensaries and to sell and deliver nonintoxicating alcoholic beverages at retail for consumption by the persons at and delivered to their domiciles on orders taken at and delivered from the regularly established place of business of the distributor located in the City.

**IMPORTER:** Shall mean, refer to and include any person, firm or corporation (other than a "distributor" as that term is herein defined) who shall bring into the City by private or common carrier, any nonintoxicating alcoholic beverages for sale at retail by himself. Any person, firm or corporation accepting delivery from the consignor at the initial point of shipment by the carrier outside of the City or at the point of destination within the City, of any shipment of nonintoxicating

alcoholic beverages from any point out of the City shall be construed to be a person bringing the same into the City.

**SALE AND SELL:** In addition to their ordinary meanings, shall include "exchange", "barter" and "traffic". (Ord. 142, 1933)

**3-2-2: LICENSE REQUIRED, FEE:**

- A. The City shall license any regularly established business within the corporate limits of the City to handle, sell, purvey or give away light wines and beer for a fee, which is on file in the City Clerk's office, for each place or place of sale so licensed, subject to the provisions set forth in this Chapter.
- B. Any distributor or importer of light wines or beer established or delivering in or into the City shall pay a license fee per annum, and shall not sell to any person not a regularly licensed retailer. (Ord. 142, 1933; amd. per letter dated 4-20-2000)

**3-2-3: SALE BY PACKAGE, GLASS:** It shall be unlawful to offer for sale, purveyance or gift in any of the places so licensed, any light wines or beer except in the original package; provided, however, that regularly established restaurants and public eating places may serve light wines or beer by the glass.

Whenever any light wines and beer are sold in the original package, the same shall not be opened or consumed on the premises of the holder of the license. (Ord. 142, 1933)

**3-2-4: LICENSE RESTRICTIONS:**

- A. No license shall be issued authorizing the sale of any nonintoxicating alcoholic beverages in any location within the City when, within the judgment of the Council, it appears that it would not be conducive to the public welfare that a license should be issued for the particular location.
- B. No license shall be issued hereunder for any nonintoxicating beverage dispensary licensing the use of any premises hereunder

which is situated within a radius of six hundred feet (600') of any grade or high school grounds or within a radius of three hundred feet (300') of any church. (Ord. 142, 1933)

3-2-5:       **REVOCATION:** Any license so issued shall be revoked and the sale of light wines and beer stopped if, in any case, any of the foregoing rules and restrictions are disobeyed in any particular; and all such places shall be conducted in a clean, sanitary and orderly manner or the license shall be revoked without recourse upon the presentation of satisfactory proof of any licensee breaking any of the foregoing mentioned rules or restrictions in any part or manner. (Ord. 142, 1933)

3-2-6:       **DRINKING IN PUBLIC:** Light wines and beer shall not be consumed, drunk or otherwise disposed of in any public place or upon the streets, in dance halls or places of amusement. (Ord. 142, 1933)

3-2-7:       **PENALTY:** Any violation of the provisions of this Chapter shall constitute a misdemeanor and shall be punishable by such fine or imprisonment as is provided by law for misdemeanors against the public peace. (Ord. 142, 1933)

## CHAPTER 3

**AMUSEMENT DEVICES**

## SECTION:

- 3-3-1: Definitions
- 3-3-2: License Required; Term
- 3-3-3: Application For License; Fee
- 3-3-4: Penalty; Revocation Of License

3-3-1: **DEFINITIONS:** For the purpose of this Chapter certain terms and words are defined as follows: words used in the present tense also include the future, words or phrases used in the singular also include the plural, words in the plural also include the singular, the word shall is mandatory and not permissive.

**AMUSEMENT DEVICE:** Any pool, billiard, pigeonhole, foosball, bagatelle, shuffleboard, punchboard, or spindle board, game or table, also any machine which upon the insertion of a coin, trade token or slug, operates or may be operated as a game or contest of skill or amusement of any kind or description and which contains no automatic payoff device for the return of money or trade tokens or slugs or which makes no provisions whatsoever for the return of money to the players.

An amusement device is further defined to include any machine, apparatus or contrivance which is used or may be used as a game of skill or amusement wherein or whereby the player initiates or employs or directs any force generated by the machine to include, but not limited to, pinball games, video games of all types, also each machine vending recorded music or a period of radio or television

entertainment in return for the insertion or deposit of a coin, trade token or slug, including, but not limited to, jukeboxes; provided, however, that the term "amusement device" does not include coin-operated radios or television sets in private premises. Provided, further, that the term "amusement device" does not include any gambling device as defined by Revised Code of Washington 9.46.010 et seq., as presently enacted or as subsequently amended.

**CITY:** The City of Toledo.

**LICENSE:** The term license includes the license certificate, sticker or other document indicating the privilege to operate, place, locate or maintain an amusement device within the corporate limits of the City.

**PERSON:** Person includes every natural person, firm or corporation. Person includes property owners, lessees and renters. (Ord. 532, 3-5-1990)

**3-3-2: LICENSE REQUIRED; TERM:**

- A. It shall be unlawful for any person to operate, place or locate or allow to be operated, placed or located, any amusement device within the corporate limits of the City without first having obtained a license therefor in accordance with the provisions of this Chapter.
- B. Every amusement device located, placed, maintained or operated within the corporate limits of the City shall be licensed in accordance with the requirements of this Chapter. Each license shall be for a calendar year beginning January 1 and ending December 31. All licenses shall be transferable from one device to another, from one person to another, and shall be posted conspicuously upon the amusement device or in a conspicuous location in public view upon the premises wherein the amusement device is located, maintained, operated or placed. (Ord. 532, 3-5-1990)

**3-3-3: APPLICATION FOR LICENSE; FEE:**

- A. Any person desiring to operate, maintain, place or locate an amusement device or allow the operation, maintenance, placement or location of an amusement device within the corporate limits of the City or any person owning, leasing, or renting premises who desires to allow an amusement device to be operated, maintained, placed or located within or upon such premises or property shall make application to the City Clerk/Treasurer for a license for such device on such form as the City Clerk/Treasurer shall provide.
- B. The annual license fee shall be the sum of twenty five dollars (\$25.00) per amusement device, which amount shall be paid to the City Clerk/Treasurer at the time the application for a license for such amusement device is submitted.
- C. All applications shall state thereupon:
1. The intended location of the amusement device.
  2. The type of device to be installed, located, placed or maintained.
  3. The name and address of the owner of the premises upon which the amusement device is to be located.
  4. The name and address of the lessee or renter of the premises if other than the owner.
  5. The number of any business license, unified business identifier, department of revenue tax number or internal revenue service tax identification number of the business operating the amusement device.
  6. The name and address of the owner of the amusement device.
  7. Identifying criteria of the amusement device such as model and serial number.
- D. The City may investigate the character and fitness of an applicant to receive a license for an amusement device and may in the exercise of its authority refuse to grant the license because of the unfitness of the applicant or because of public policy. No license shall be issued except to a person of good moral character suitable to operate, maintain, or conduct such amusement device within the corporate limits of the City. No license shall be issued unless all licenses

required of the applicant for the operation of the premises wherein an amusement device is to be installed, placed, maintained or located have been obtained and proof of the existence and possession of such licenses by the applicant has been provided to the City.

The license application shall come before the City Council at a regularly scheduled meeting thereof where such evidence in support of opposition thereof shall be received by the City Council in open session. Thereafter the license shall be approved or denied by the City Council and acts of the City Council in respect thereto shall be noted upon the application. If the application is granted, the City Council shall instruct the City Clerk/Treasurer to issue a license for the amusement device forthwith. If the application is denied, the City Clerk/Treasurer shall refund to the applicant, the amount of the license fee paid at the time the application was submitted less a processing fee of five dollars (\$5.00). Any person whose license application has been rejected by the City Council, may request reconsideration of the Council action, in writing, in which event the City Council shall hold an additional public hearing upon the application where evidence in support of or in opposition of the application may be heard and may modify or reaffirm their initial determination. (Ord. 532, 3-5-1990)

**3-3-4: PENALTY; REVOCATION OF LICENSE:** Any person locating, placing, maintaining or operating or allowing the placement, maintenance, operation or location of an amusement device within the City contrary to the terms and conditions of this Chapter shall be guilty of a misdemeanor and shall upon conviction thereof be fined in a sum not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00). Additionally, any license issued to any person convicted of violating any of the provisions of this Chapter shall upon conviction of the person of a violation of this Chapter be revoked by the City Council after due notice and hearing wherein the holder of such license shall be required to appear before the City Council at a regularly scheduled meeting thereof and show cause, if any, why said license should not be revoked. (Ord. 532, 3-5-1990)

CHAPTER 4  
**RESERVED**

CHAPTER 5  
**RESERVED**

CHAPTER 6  
**RESERVED**

## CHAPTER 7

**LODGING EXCISE TAX**

## SECTION:

- 3-7-1: Tax Levied
- 3-7-2: Definitions
- 3-7-3: Additional Tax Levied
- 3-7-4: Establishment Of Special Fund
- 3-7-5: Administration And Collection
- 3-7-6: Violation; Penalty

3-7-1: **TAX LEVIED:** There is levied a special excise tax of four percent (4%) on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 Revised Code of Washington. The tax imposed under chapter 82.08 Revised Code of Washington applies to the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. (Ord. 642, 6-2-2003, eff. 6-10-2003)

3-7-2: **DEFINITIONS:** The definitions of "selling price", "seller", "buyer", "consumer", and all other definitions as are now contained in Revised Code of Washington 82.08.010, and subsequent amendments thereto, are adopted as the definitions for the tax levied in this chapter. (Ord. 642, 6-2-2003, eff. 6-10-2003)

3-7-3: **ADDITIONAL TAX LEVIED:** The tax levied in this chapter shall be in addition to any license fee or any other tax imposed or levied under any law or any other ordinance of the city; provided, the first two percent (2%) of the tax shall be deducted from the amount of tax the seller would otherwise be required to collect and pay to

the department of revenue under chapter 82.08 Revised Code of Washington. (Ord. 642, 6-2-2003, eff. 6-10-2003)

3-7-4:       **ESTABLISHMENT OF SPECIAL FUND:** There is created a special fund in the treasury of the city and all taxes collected under this chapter shall be placed in this special fund to be used solely for the purpose of paying all or any part of the cost of tourist promotion, acquisition or tourism related facilities, or operation of tourism related facilities or to pay for any other uses as authorized in chapter 67.28 Revised Code of Washington, as now or hereafter amended. (Ord. 642, 6-2-2003, eff. 6-10-2003)

3-7-5:       **ADMINISTRATION AND COLLECTION:** For the purpose of the tax levied in this chapter:

- A.   The department of revenue is designated as the agent of the city for the purposes of collection and administration of the tax.
- B.   The administrative provisions contained in Revised Code of Washington 82.08.050 through 82.08.064 and in chapter 82.32 Revised Code of Washington shall apply to administration and collection of the tax by the department of revenue.
- C.   All rules and regulations adopted by the department of revenue for the administration of chapter 82.08 Revised Code of Washington are adopted by reference.
- D.   The department of revenue is authorized to prescribe and utilize such forms and reporting procedures as the department may deem necessary and appropriate. (Ord. 642, 6-2-2003, eff. 6-10-2003)

3-7-6:       **VIOLATION; PENALTY:** It is unlawful for any person, firm, or corporation to violate or fail to comply with any of the provisions of this chapter. Every person convicted of a violation of any provisions of this chapter shall be punished by a fine in a sum not to exceed five hundred dollars (\$500.00). Each day of violation shall be considered a separate offense. (Ord. 642, 6-2-2003, eff. 6-10-2003)

CHAPTER 8  
ADMISSION TAX

## SECTION:

- 3-8-1: Definitions  
 3-8-2: Tax Imposed  
 3-8-3: Price Printed On Ticket  
 3-8-4: Collection Of Tax  
 3-8-5: Rules And Regulations  
 3-8-6: Penalty

3-8-1: **DEFINITIONS:** For the purposes of this Chapter, words and phrases shall have the following meanings:

**ADMISSION CHARGE:** In addition to its usual and ordinary meaning, shall include a charge made for season tickets or subscriptions; a charge made for rental or use of equipment or facilities for purposes of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which a general admission is charged, the combined charge shall be considered as the admission charge.

**MOVING PICTURE THEATER:** Any place devoted to the business of showing moving pictures to the public for hire while such moving pictures are being shown and are the principal program or entertainment provided at the particular performance for which an admission charge is made.

**PLACE:** Includes, but is not restricted to, theaters, dance halls, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, carnivals, sideshows and such attractions as

merry-go-rounds, ferris wheels and roller coasters.

TREASURER: Shall mean the Clerk/Treasurer of the City.  
(Ord. 160, 12-6-1943; amd. Ord. 220, 2-2-1953)

3-8-2: **TAX IMPOSED:**

- A. There is hereby levied and imposed upon every person who pays an admission charge to a moving picture theater and for every person who is admitted free of charge, if other persons are required to pay an admission charge for the same performance, and there shall be collected from every such person a tax in the amount of one cent (\$0.01) for every such individual admission.
- B. Excepting as set forth in subsection A of this Section, there is hereby levied and imposed upon every person (including children, without regard to age) who pays an admission charge to any place, including persons who are admitted free of charge or at reduced rates to any place, for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations, and there shall be collected from every such person, a tax in the amount of one cent (\$0.01) for each twenty cents (\$0.20) or fraction thereof paid for the admission charge.
- C. Whenever the admission charge is ten cents (\$0.10) or less, no tax shall be payable, nor shall any tax be payable by any bona fide employee of the place or by any Federal, State or Municipal officer or employee on official visits, or by any newspaper reporter, or by any child under twelve (12) years of age, who is admitted free.
- D. Whenever any person is admitted free or at reduced rates to any place at a time when an admission charge is made to other persons for the same or similar accommodations, a tax shall be payable by the person so admitted in an amount equal to the tax payable by such other persons for the same or similar accommodations.
- E. Whenever the charge to women and children for admission to any place is less than the charge made to men, or when such persons are regularly admitted free, the lesser charge shall not be deemed a reduced rate under this Chapter, and the amount of the tax payable hereunder by such persons shall be determined by the amount of the actual admission charge paid.

- F. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is ten cents (\$0.10) or less. (Ord. 220, 2-2-1953)

The tax hereby levied and imposed shall be collected and paid on and after December 10, 1943. (Ord. 160, 12-6-1943)

3-8-3: **PRICE PRINTED ON TICKET:** The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place to which admission is gained; and it shall be unlawful and a violation of this Chapter for any person to sell an admission ticket or card on which the name of the vendor or the price is not so printed, stamped or written, or to sell an admission ticket or card at a price in excess of the price printed, stamped or written thereon. (Ord. 160, 12-6-1943)

3-8-4: **COLLECTION OF TAX:** Every person receiving any payment for admissions on which a tax is levied under this Chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this Chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Clerk/Treasurer as herein provided. Any person required to collect the tax imposed under this Chapter who fails to collect the same, or, having collected the same fails to remit the same to the Clerk/Treasurer in the manner prescribed herein, whether such failure be the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax, and shall, unless the remittance be made as herein required, be guilty of a violation of this Chapter. The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Clerk/Treasurer in bimonthly installments and remittance therefor on or before the fifteenth day of the month next succeeding the end of the bimonthly period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Clerk/Treasurer, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance to the Clerk/Treasurer unless the check is honored and is in the full and correct amount. The person receiving any payment for admissions shall make out a

return upon such forms and setting forth such information as the Clerk/Treasurer may require, showing the amount of the tax upon admissions for which he is liable for the preceding bimonthly period, and shall sign and transmit the same to the Clerk/Treasurer with a remittance for said amount. Provided, that the Clerk/Treasurer may in his discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable. Whenever any theater, circus, show, exhibition, carnival, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Clerk/Treasurer shall be the judge, the Clerk/Treasurer may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performances or exhibitions, or at the conclusion of the series of performances or exhibitions or at such other times as the Clerk/Treasurer may determine; and failure to comply with any requirement of the Clerk/Treasurer as to report and remittance of the tax as required shall be a violation of this Chapter. The books, records and accounts of any person collecting a tax herein levied shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the Clerk/Treasurer. (Ord. 160, 12-6-1943)

3-8-5:       **RULES AND REGULATIONS:** The Clerk/Treasurer shall have power to adopt rules and regulations not inconsistent with the terms of this Chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of said rules and regulations shall be on file and available for public examination in the Clerk/Treasurer's office.

Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this Chapter. (Ord. 160, 12-6-1943)

3-8-6:       **PENALTY:** Each violation of or failure to comply with the provisions of this Chapter shall constitute a separate offense and shall be punishable by a fine not exceeding one hundred dollars (\$100.00) or to imprisonment for not exceeding thirty (30) days, or to both such fine and imprisonment. (Ord. 160, 12-6-1943)

## CHAPTER 9

**ELECTRIC LIGHT AND POWER UTILITIES**

## SECTION:

- 3-9- 1: Power To License
- 3-9- 2: Definitions
- 3-9- 3: Occupation License Required
- 3-9- 4: Term Of License
- 3-9- 5: Occupations Taxable; Amounts
- 3-9- 6: Exceptions And Deductions
- 3-9- 7: Application For License
- 3-9- 8: Taxpayer To Keep Records
- 3-9- 9: Returns Confidential
- 3-9-10: Payment Of Tax
- 3-9-11: Duties Of Clerk/Treasurer
- 3-9-12: Remedy For Nonpayment Of Tax
- 3-9-13: False Returns
- 3-9-14: Penalty

3-9-1:       **POWER TO LICENSE:** The provisions of this Chapter shall be deemed as the exercise of the power of the City to license for revenue. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-2:       **DEFINITIONS:** In construing the provisions of this Chapter, except when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

**GROSS INCOME:**       The value proceeding or accruing from the sale of electric light and power service within the City.

**PERSON:**               Person or persons of either sex, firms, copartnerships, public utility districts, corporations and other associations of natural

persons, whether acting by themselves, or by agents, servants or employees.

**TAXPAYER:** Any person or persons liable to the license fee or tax imposed by this Chapter. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

**3-9-3: OCCUPATION LICENSE REQUIRED:** No person shall engage in or carry on any business, occupation, pursuit or privilege for which a license fee or tax is imposed by this Chapter without first having obtained, and being the holder of, a valid and subsisting license so to do, to be known as an "occupation license".

Any taxpayer who engages in, or carries on, any business subject to tax hereunder without first obtaining his "occupation license" so to do, shall be guilty of a violation of this Chapter for each day during which the business is so engaged in or carried on, and any taxpayer who fails or refuses to pay the license fee or tax, or any part thereof, on or before the due date shall be deemed to be operating without a license. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

**3-9-4: TERM OF LICENSE:** All "occupation licenses" shall be personal and nontransferable, and shall be valid as long as the taxpayer shall continue in business and pay the tax accrued to the City under the terms of this Chapter. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

**3-9-5: OCCUPATIONS TAXABLE; AMOUNTS:** There is levied and there shall be collected by the City license fees or occupation taxes from the persons on account of the business activities and in the amounts to be determined by the rates against gross income as follows:

Upon every person engaged in or carrying on the business of selling or furnishing electric light and power, or either, a fee or tax equal to five percent (5%) of his total gross income from such business in the City. (Ord. 380, 11-19-1979)

**3-9-6: EXCEPTIONS AND DEDUCTIONS:** There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed so much thereof as is derived from

transactions in interstate or foreign commerce, or from business done, services rendered or property sold, with or to the United States, the State of Washington, the City of Toledo, or to any other political subdivision of the State, and any amount or amounts paid by the taxpayer to the United States, the State of Washington, the City of Toledo, or any other political subdivision of the State, as excise taxes levied or imposed upon the sale or distribution of property or services, or as an occupation tax.

There shall be deducted and excepted from the total gross income upon which the license fee or tax is computed all cash discounts allowed and actually granted to customers of the taxpayer.

Nothing in this Chapter shall be construed as requiring the payment of a license fee or tax which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States, or which would be inconsistent with the Constitution or laws of the State. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-7:       **APPLICATION FOR LICENSE:** Every taxpayer shall apply to the City Clerk/Treasurer for an "occupation license" upon blanks or forms to be prepared and provided by him requesting such information as may be necessary to enable him to administer the provisions of this Chapter. The taxpayer shall fill in such form giving the information required, and such form shall be signed by the taxpayer or its lawfully authorized officer or agent. Upon the acceptance of such application by the City Clerk/Treasurer, the City Clerk/Treasurer shall thereupon issue to the taxpayer an "occupation license". (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-8:       **TAXPAYER TO KEEP RECORDS:** Each taxpayer shall keep books or records reflecting the amount of his gross income, and such books or records shall at all reasonable times be open to the inspection of the City or its agents, for the verification of the taxpayer's returns. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-9:       **RETURNS CONFIDENTIAL:** The applications and returns made to the City Clerk/Treasurer pursuant to this Chapter shall not be made public, nor shall they be subject to the inspection of any person except the Mayor, City Clerk/Treasurer or his agents, the City Attorney and members of the City Council. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-10:       **PAYMENT OF TAX:** The tax or license fee imposed hereunder shall be due and payable in bimonthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bimonthly period in which the tax or license fee accrued. The taxpayer, on or before the due date, shall make out a return, upon such forms and setting forth such information as the City Clerk/Treasurer may require, showing the amount of tax for which he is liable, and shall sign and transmit such return to the City Clerk/Treasurer, together with a remittance for the amount of tax or license. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-11:       **DUTIES OF CLERK/TREASURER:**

- A.    Verify Returns: If the taxpayer fails to apply for a license or make his return, or if the City Clerk/Treasurer is dissatisfied with any return such officer and his agents may enter the premises of such taxpayer at any reasonable time to inspect his books and records, and may examine any person under oath administered by him or his agent, touching the matters inquired into; or said Clerk/Treasurer may fix a time for the investigation of the correctness of the return, and may issue a subpoena to the taxpayer, or any person interested, to attend upon such investigation and there testify under oath administered by such officer or his agent, in regard to the matters inquired into, and may by subpoena require him, or any person, to bring with him such books, records and papers as may be necessary or convenient in such investigation.
- B.    Make Rules: The City Clerk/Treasurer shall have the power, subject to approval by the City Council, and it shall be his duty, from time to time, to adopt, publish and enforce rules and regulations for the administration of this Chapter, which shall not be inconsistent with the terms hereof, and it shall be unlawful and a violation of this Chapter to violate or fail to comply with any such rule or regulation. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-12:       **REMEDY FOR NONPAYMENT OF TAX:** If any taxpayer fails to apply for an "occupation license" or to make his return and pay the fees and taxes imposed by this Chapter within ten (10) days after the same shall be due, the City Clerk/Treasurer shall ascertain and fix the amount thereof in accordance with his best information and belief and shall notify the taxpayer thereof, who shall be liable therefor in any suit or action

brought by the City for the collection thereof. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-13:       **FALSE RETURNS:** It shall be unlawful for any person liable for tax or fees hereunder to fail or refuse to make application for a license, or to make bimonthly tax returns, or to neglect or refuse to pay the fee or tax when due, or for any person to make any false or fraudulent application or return, or any false statement or representation in, or in connection with, any such application or return, or in any manner to fail to comply with the provisions hereof, or in any manner to hinder or delay the City, or any of its officers, from carrying out the provisions of this Chapter. (Ord. 204, 2-6-1950, eff. retroactive to 2-1-1950)

3-9-14:       **PENALTY:** Any person violating or failing to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00). (Ord. 380, 11-19-1979)

CHAPTER 10  
TELEPHONE COMPANIES

## SECTION:

- 3-10- 1: Purpose
- 3-10- 2: Definitions
- 3-10- 3: License Required; Violation
- 3-10- 4: Monthly Periods
- 3-10- 5: Occupation Subject; Rate
- 3-10- 6: Return Required; Due Dates And Payments
- 3-10- 7: Payment Procedure
- 3-10- 8: More Than One Business
- 3-10- 9: Failure To Pay; Violation
- 3-10-10: Exceptions And Deductions
- 3-10-11: Allocation Of Income; Cellular Telephone Service
- 3-10-12: Books And Records Required; Returns Confidential
- 3-10-13: Investigation And Audit Regarding Tax Liability
- 3-10-14: Overpayment Or Deficiency
- 3-10-15: Failure To File Return
- 3-10-16: Sale Of Business
- 3-10-17: Failure To Comply; Unlawful Acts
- 3-10-18: Penalty For Late Payment; Interest
- 3-10-19: Debt To City When Unpaid
- 3-10-20: Rate Change
- 3-10-21: Appeals
- 3-10-22: Penalty

3-10-1:       **PURPOSE:** The provisions of this chapter shall be deemed an exercise of the power of the city to levy a tax on utilities pursuant to the laws of the state of Washington. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-2:       **DEFINITIONS:** Unless the context clearly indicates otherwise, the words, phrases and terms used in this chapter shall have the following meanings:

**CELLULAR  
TELEPHONE  
SERVICE:**

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

**COMPETITIVE  
TELEPHONE  
SERVICE:**

The providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under title 80 Revised Code of Washington and for which a separate charge is made.

**GROSS INCOME:**

The value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, receipts, or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidence of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, cost of material used, labor costs, taxes, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in section 3-10-10 of this chapter.

**PERSON OR PERSONS:**

Persons of either sex, firms, copartnerships, corporations, public utility districts, municipal corporations or departments thereof, public or private utilities, and other associations, whether acting by themselves or by servants, agents or employees.

**TAX YEAR OR TAXABLE YEAR:**

The year commencing January 1 and ending on December 31, of such year, or in lieu thereof, the taxpayer's fiscal year when permission is obtained from the city clerk to use the same as the tax period, or in lieu thereof, commencing December 15 and ending December 14 of the next following calendar year when permission is obtained from the city clerk to use the period as the tax year.

**TAXPAYER:**

Any person liable for the license fee or tax imposed by this chapter.

**TELEPHONE BUSINESS:**

The business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business does not include the providing of broadcast services by radio and television stations. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-3: **LICENSE REQUIRED; VIOLATION:** On and after the effective date hereof no person subject to the payment of the tax provided herein shall engage in any business, occupation or activity in the city without first having obtained and being a holder of a valid and existing license so to do, to be known as an "occupation license" for which the applicant shall pay the sum of twenty dollars (\$20.00). Such "occupation license" shall expire at the end of the calendar year in which it is issued and a new license shall be required for each calendar year, unless the taxpayer is transacting his or its business on a fiscal year and not on a

calendar year and with the consent of the city clerk, obtains his or its license for the period of his or its current fiscal year which shall be deemed the tax year for such taxpayer.

Application for an "occupation license" shall be made to the city clerk who shall provide the forms thereof and shall issue the license upon payment of the license fee. There shall be no prorate of license fee for an applicant who makes application for part of any year or period.

Any person engaging in or carrying on more than one such business, occupation, pursuit or privilege within the city shall make application for and procure an "occupation license" for each of the same.

Each "occupation license" shall be numbered, and show the name, place and character of business of the taxpayer, and such other information as the city clerk shall deem necessary, and shall be conspicuously posted in the place of business for which it is issued at all times. Such license shall be personal and nontransferable.

No person to whom an "occupation license" has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display his license; nor shall such other person operate under or display such license.

Any taxpayer who engages in or carries on any business subject to tax hereunder without having an "occupation license" so to do shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on and the taxpayer who fails or refuses to pay the license fee or tax on any part thereof on or before the due date shall be deemed to be operating without having his license so to do. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-4:       **MONTHLY PERIODS:** On and after the effective date hereof, there is levied upon and shall be collected from, and paid by as hereinafter provided, every person on account of transacting, carrying on or engaging in such business activities within the city limits as are described in section 3-10-5 of this chapter, an occupation tax (sometimes herein referred to as "tax") against the gross monthly income of the business. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-5:       **OCCUPATION SUBJECT; RATE:** There are levied and shall be collected annual license fees and occupation taxes against the persons designated on account of the business activities, and in the

amounts to be determined by the application of the respective rates against gross income as follows:

- A. Telephone Business: Upon every person engaged in or carrying on any telephone business within the city, a fee or tax equal to five percent (5%) of the total gross income, including revenues from intrastate long distance toll service, from such business in the city during the current calendar year for which a license is required. (Ord. 650, 2-17-2004, eff. 2-28-2004)

**3-10-6: RETURN REQUIRED; DUE DATES AND PAYMENTS:** The tax imposed by this chapter shall be due and payable in monthly installments. The remittance shall be made as hereinafter provided and shall be accompanied by a return on a form to be provided and prescribed by the city clerk. The return and remittance shall be in the city clerk's office by five o'clock (5:00) P.M. Pacific Time, on or before the last day of each month succeeding the end of the month in which the tax accrued. The taxpayer shall be required to swear or affirm in writing on the return that the information therein given is full and true and that the taxpayer knows it to be so. Whenever the total tax for which any person is liable under this chapter does not exceed the sum of fifteen dollars (\$15.00) for any monthly period, an annual return may be made upon written request and subject to the approval of the city clerk.

Whenever a taxpayer commences to engage in business during any monthly period, his or her first return and tax shall be based upon and cover the portion of the month during which he or she engaged in business. (Ord. 650, 2-17-2004, eff. 2-28-2004)

**3-10-7: PAYMENT PROCEDURE:** The tax shall be paid at the time the tax return was filed with the city clerk by bank draft, certified check, cashier's check, personal check or money order or in cash. If payment is made by draft or check, the tax shall not be deemed paid until the check or draft is honored in the usual course of business; nor shall acceptance of any sum by the clerk be an acquittance or discharge of the tax due unless the amount of payment is in full and is the actual amount due. (Ord. 650, 2-17-2004, eff. 2-28-2004)

**3-10-8: MORE THAN ONE BUSINESS:** Any person engaged in, or carrying on more than one such business, occupation, pursuit

or privilege shall pay the tax so imposed separately for each of the same.  
(Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-9:       **FAILURE TO PAY; VIOLATION:** Any taxpayer who engages in, or carries on, any business subject to the tax hereunder, and fails or refuses to pay the tax or any part thereof on or before the due date shall be operating in violation of this chapter. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-10:       **EXCEPTIONS AND DEDUCTIONS:**

- A.     There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed the following:
1. That portion of the gross income derived from charges to another telecommunications company, as defined in Revised Code of Washington 80.04.010, for connecting fees, switching charges or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.
  2. Charges by a taxpayer engaging in a telephone business or to a telecommunications company, as defined in Revised Code of Washington 80.04.010, for telephone service that the purchaser buys for the purpose of resale.
  3. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third party fraud or other crime and was not properly a debt of a customer.
  4. There shall be excepted and deducted from the total gross income upon which the tax is computed all cash discounts allowed and actually granted to customers of the taxpayer during the tax year.
  5. So much thereof as is derived from the transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents in their official capacity, and amount paid by the taxpayer to the United States, the state of Washington, as excise taxes levied or imposed on the sale or distribution of property or service.
- B.     There shall be excepted and deducted from the total gross income upon which the tax is computed all bad debts for services incurred,

rendered or charged for during the tax year. Debts shall be deemed bad and uncollectible when they have been written off the books of the taxpayer. In the event debts are subsequently collected, the income shall be reported in the return for the quarter in which the debts are collected and at the rate prevailing in the tax year when collected.

- C. Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the constitution or laws of the United States or which would not be consistent with the constitution or laws of the state of Washington. (Ord. 650, 2-17-2004, eff. 2-28-2004)

**3-10-11: ALLOCATION OF INCOME; CELLULAR TELEPHONE SERVICE:**

- A. Service Address: Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.
- B. Presumption: There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.
- C. Roaming Phones: When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.
- D. Dispute Resolution: If there is a dispute between or among the city and one or more other cities, as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation between the parties, then the dispute shall be resolved by the city and the other city or cities by submitting the issue for settlement to the Association of Washington Cities (AWC). Once the taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes on the disputed revenues so long as it changes its billing

records for future revenues to comport with the settlement facilitated by AWC. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-12: **BOOKS AND RECORDS REQUIRED; RETURNS CONFIDENTIAL:** It shall be the duty of each taxpayer upon his/her or its gross income to keep and enter in a proper book or set of books or records or an account which shall accurately reflect the amount of his/her or its gross income, which account shall always be open at the principal place of business to the inspection of the city clerk, or the clerk's duly authorized agent, and from which the officer or agent may verify the return made by the taxpayer. Such records shall be preserved for a period of five (5) years.

The city clerk, or the clerk's duly authorized agent, shall not publicly reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records, provided, the city clerk, or the clerk's duly authorized agent, can disclose such information pursuant to those exceptions authorized under state law, Revised Code of Washington 82.32.330 and 42.17.310(1)(c). (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-13: **INVESTIGATION AND AUDIT REGARDING TAX LIABILITY:** If any taxpayer fails to make a return as required hereunder, or if the city clerk is dissatisfied as to the correctness of the statements made in the return of any reasonable time for the purpose of inspecting his or its books or records of account to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be, and may examine any person under the oath administered by the clerk or his agent, touching the matters inquired into, or the clerk or his agent, may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify under oath administered by the clerk or his agent, in regard to the matters inquired into and may, by subpoena, require him or any person, to bring with him such books, records and papers as may be necessary. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-14: **OVERPAYMENT OR DEFICIENCY:** If the city clerk upon investigation or upon checking returns finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount by a treasurer's check upon the general fund; provided that if the taxpayer in all probability will have a tax liability in the ensuing quarter, such an overpayment may be held and applied by the clerk as a

credit against the tax to become due. If the clerk finds that the tax is less than required, he shall mail a statement to the taxpayer showing the balance due, who shall pay the amount shown thereon to the city treasurer within ten (10) days of the date of the notice. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-15:     **FAILURE TO FILE RETURN:** If any taxpayer fails, neglects or refuses to make his return as and when required hereunder, the city clerk is authorized and directed to determine the amount of tax payable and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable unless the taxpayer shall file a true and correct return with full payment within seven (7) business days of the date such mail notification is sent. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-16:     **SALE OF BUSINESS:** Upon the sale or transfer during a quarterly period of a business or account of which tax is required, the purchaser or transferee shall, if the tax has not been paid in full for the quarterly period, be responsible for the payment of the tax for that portion of the quarterly period during which he or it carries on such business. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-17:     **FAILURE TO COMPLY; UNLAWFUL ACTS:** It is unlawful for any person liable to fail or refuse to make the returns when required or for any person to make any false or fraudulent application or returns when required or any false statement or return or any false statement or representation in, or in connection with, any such return, or to aid or abet another in an attempt to evade payment of the fee or tax, or any part thereof or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-18:     **PENALTY FOR LATE PAYMENT; INTEREST:** For each payment due, if such payment is not made by the due date and time thereof, there shall be added payment penalties and interest as follows:

- A. For each month or portion thereof that the payment is overdue, a penalty of five percent (5%) of the tax due shall be imposed, provided that the total penalty imposed shall not exceed a total of twenty five percent (25%).
- B. In addition to the penalties imposed, interest on the amount due shall accrue at the rate of eight percent (8%) per annum from the date of the delinquency.

The city clerk is authorized to waive all or any portion of the penalties and interest provided herein in the event that the city clerk determines that the late payment was the result of excusable neglect or extreme hardship. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-19:     **DEBT TO CITY WHEN UNPAID:** Any tax due and unpaid under this chapter, and all penalties and interest thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-20:     **RATE CHANGE:** No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of change, and except for a change in the tax rate authorized by Revised Code of Washington 35.21.870, no change in the rate of the tax may take effect sooner than sixty (60) days following the enactment of the ordinance establishing the change. The city shall send to each cellular telephone service company at the address on its license, a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-21:     **APPEALS:**

- A. Any taxpayer aggrieved by the amount of the fee or tax determined by the clerk to be due under the provisions of this chapter may appeal such determination to the city hearing examiner.
- B. The appeal shall be in writing and shall contain the following:
  - 1. The name and address of the taxpayer.

2. A statement identifying the determination of the clerk from which the appeal is taken.
  3. A statement setting forth the grounds upon which the appeal is taken, and identifying the specific errors the clerk is alleged to have made in making his or her determination.
  4. A statement identifying the requested relief from determination being appealed.
- C. The appeal must be filed with the clerk within ten (10) days from the date the taxpayer was mailed the notice of the clerk's decision.
  - D. The hearing examiner shall conduct an appeal hearing, at which the appellant taxpayer and the clerk shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal. The hearing examiner shall establish rules for such hearings consistent with the provisions of this section, including rules relating to the issuance and reconsideration of decisions.
  - E. The appellant taxpayer shall have the burden of proving by the preponderance of the evidence that the determination of the clerk is erroneous.
  - F. Appeal proceedings before the hearing examiner shall be tape recorded and all exhibits admitted by the examiner shall be made part of the record.
  - G. Following the hearing, the hearing examiner shall render a decision on the appeal and shall enter written findings and conclusions in support thereof. A copy of the findings, conclusions and decision shall be mailed to the appellant taxpayer and clerk. The decision shall state the correct amount of tax owing as determined by the hearing examiner.
  - H. The decision of the hearing examiner shall be final and conclusive unless the same is appealed to the city council. Any such appeal must be filed within ten (10) working days of the decision appealed from or any final decision on reconsideration thereof. Any such appeal shall be based solely on the record of the appeal hearing conducted by the hearing examiner.
  - I. Any and all actions seeking judicial review of a city council decision under this section must be filed in the Lewis County superior court within ten (10) calendar days following the date of the decision. Any

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action not brought within this time limit is barred. (Ord. 650, 2-17-2004, eff. 2-28-2004)

3-10-22: **PENALTY:** Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine in the maximum amount of one thousand dollars (\$1,000.00) and/or a maximum jail sentence of ninety (90) days. (Ord. 650, 2-17-2004, eff. 2-28-2004)

CHAPTER 11  
**OCCUPATION TAX**

(Rep. by Ord. 457, 2-21-1984)

## CHAPTER 12

**LOCAL SALES-USE TAX**

## SECTION:

- 3-12-1: Tax Imposed
- 3-12-2: Rate Of Tax Imposed
- 3-12-3: Administration And Collection Of Tax
- 3-12-4: Consent To Inspection Of Records
- 3-12-5: Authorizing Execution Of Contract For Administration
- 3-12-6: Special Initiative
- 3-12-7: Penalties

3-12-1: **TAX IMPOSED:** There is hereby imposed a sales or use tax, as the case may be, as authorized by the Revised Code of Washington 82.14.030(2), upon every taxable event, as defined in the Revised Code of Washington 82.14.020, occurring within the City. The tax shall be imposed upon, and collected from, those persons from whom the State sales tax, or use tax, is collected, pursuant to chapters 82.08 and 82.12 of the Revised Code of Washington. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-2: **RATE OF TAX IMPOSED:** The rate of tax imposed by Section 3-12-1 of this Chapter, shall be one-half ( $\frac{1}{2}$ ) of one percent (1%) of the selling price or value of the article used, as the case may be; provided, however, that during such period as there is in effect a sales tax, or use tax, imposed by Lewis County under section 17(2), chapter 49, Laws of 1982, First Extraordinary Session, at a rate equal to, or greater than, the rate imposed by this Section, the County shall receive fifteen percent (15%) of the tax imposed by Section 3-12-1 of this Chapter. Provided, further, that during such period as there is in effect a sales tax, or use tax, imposed by Lewis County under section 17(2), chapter 49, Laws of 1982, First Extraordinary Session, at a rate which is less than the rate imposed by this Section, the County shall receive from the tax imposed by Section 3-12-1 of this Chapter, that amount of revenue equal to fifteen percent (15%) of the rate imposed by the County under section 17(2),

chapter 49, Laws of 1982, First Extraordinary Session. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-3:       **ADMINISTRATION AND COLLECTION OF TAX:** The administration and collection of tax imposed by this Chapter shall be in accordance with the provisions of the Revised Code of Washington 82.14.050. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-4:       **CONSENT TO INSPECTION OF RECORDS:** The City hereby consents to the inspection of such records as are necessary to qualify the City for an inspection of records by the Department of Revenue, pursuant to Revised Code of Washington 82.32.330. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-5:       **AUTHORIZING EXECUTION OF CONTRACT FOR ADMINISTRATION:** The Mayor and the Clerk of the City are hereby authorized to enter into a contract with the Department of Revenue for the administration of this tax. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-6:       **SPECIAL INITIATIVE:** This Chapter shall be subject to a special initiative proposing that the tax imposed by this Chapter be changed or repealed. The number of registered voters needed to sign a petition for this special initiative shall be fifteen percent (15%) of the total number of names of persons listed as registered voters in the City on the day of the last preceding general election. If a special initiative petition is filed with the City Council, the operation of this Chapter shall not be suspended pending the City Council or voter approval of the special initiative, and the tax imposed herein shall be collected until such special initiative is approved by the City Council or the voters. The procedures for initiative, upon petition contained in Revised Code of Washington 35A.11.100, shall apply to any such special initiative proceeding. (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

3-12-7:       **PENALTIES:** Any seller who fails or refuses to collect the tax as required, with the intent to violate the provisions of this Chapter, or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). (Ord. 438-A, 2-22-1983, eff. 11-27-1985)

CHAPTER 13  
GAS UTILITY TAX

## SECTION:

- 3-13- 1: License Required
- 3-13- 2: Tax Imposed, Rate
- 3-13- 3: Deductions Permitted
- 3-13- 4: Payment Of Tax
- 3-13- 5: Records Kept
- 3-13- 6: Penalty For Late Payment
- 3-13- 7: Credits, Refunds
- 3-13- 8: Violations, Penalty
- 3-13- 9: Purpose
- 3-13-10: City Clerk's Duties

3-13-1:     **LICENSE REQUIRED:** From and after May 1, 1978, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by Section 3-13-2 of this Chapter without first having obtained and being the holder of a license to do so, to be known as an occupational license. Each such person, firm or corporation shall promptly apply to the City Clerk for such license upon forms which the City Clerk shall prepare and provide giving such information as the Clerk shall deem reasonably necessary to enable the Clerk to administer and enforce this Ordinance, and, upon acceptance of such application by the Clerk, the Clerk shall thereupon issue such license to the applicant. Such occupation license shall be personal and nontransferable and shall be valid for as long as the licensee shall continue in said business and shall comply with the terms of this Ordinance. (Ord. 360, 5-1-1978)

3-13-2:     **TAX IMPOSED, RATE:** From and after December 31, 1979, there is hereby levied upon, and shall be collected from every person, firm or corporation engaged in the carrying on of the gas utility business within, or partly within, the corporate limits of the City, an annual tax for the privilege of so doing, such tax being equal to five percent (5%)

of the total gross revenue raised from subscriptions as to gas utility service carried on within, or partly within, the corporate limits of the City, whether said subscriptions be for industrial, commercial or residential gas services. (Ord. 377, 11-19-1979)

3-13-3:       **DEDUCTIONS PERMITTED:** In computing the annual tax, there shall be deducted from said gross operating revenues the following items:

- A.    The amount of credit losses and uncollectible accounts actually sustained by the taxpayer for subscriptions within, or partly within, the corporate limits of the City;
- B.    Amounts derived from transactions in interstate or foreign commerce or from any business which the City is prohibited from taxing under the Constitution of the United States of America or of the State of Washington;
- C.    Amounts received in excess of five hundred dollars (\$500.00) per month from any one customer. (Ord. 360, 5-1-1978)

3-13-4:       **PAYMENT OF TAX:** The tax or license fee imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the period in which the tax or license fee accrued. The taxpayer, on or before said due date, shall make out a return on such forms as shall be provided by the City Clerk, and shall set forth such information as the City Clerk may require, showing the amount of the tax for which the taxpayer is liable, and shall sign and transmit said return to the City Clerk, together with the remittance for the amount of the tax or license. (Ord. 360, 5-1-1978)

3-13-5:       **RECORDS KEPT:** Each taxpayer shall keep records reflecting the amount of his said gross operating revenues, and such records shall be open at all reasonable times to the inspection of the City Clerk, or his or her duly authorized subordinates, for verification of said tax returns or for the fixing of the tax of a taxpayer who shall fail to make such returns. (Ord. 360, 5-1-1978)

3-13-6: **PENALTY FOR LATE PAYMENT:** If any person, firm or corporation subject to this Ordinance shall fail to pay any tax required by this Ordinance within thirty (30) days after the due date thereof, there shall be added to such tax a penalty of ten percent (10%) of the amount of such tax; and any tax due under this Ordinance and unpaid, and all penalties thereon, shall constitute a debt to the City and may be collected by court proceedings, which remedy shall be in addition to all other remedies. (Ord. 360, 5-1-1978)

3-13-7: **CREDITS, REFUNDS:** Any money paid to the City through error or otherwise not in payment of the tax imposed hereby, or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer's cessation of business within the City, be refunded to the taxpayer. (Ord. 360, 5-1-1978)

3-13-8: **VIOLATIONS, PENALTY:** Any said person, firm or corporation subject to this Ordinance who shall fail or refuse to apply for an occupation license or to make said tax returns, or to pay said tax when due, or who shall make any false statement or representation in or in connection with any such application for an occupation license or such tax return, or shall otherwise violate or refuse or fail to comply with this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00). (Ord. 360, 5-1-1978)

3-13-9: **PURPOSE:** This Ordinance shall be deemed to be an exercise of the police and revenue power of the City, and should any of the provisions of this Ordinance be declared unconstitutional or null and void by a court of competent jurisdiction, such declaration shall not affect any other provisions of this Ordinance. (Ord. 360, 5-1-1978)

3-13-10: **CITY CLERK'S DUTIES:** The City Clerk is hereby authorized to adopt, publish and enforce from time to time such rules and regulations for the proper administration of this Ordinance as shall be necessary, and it shall be a violation of the terms and conditions of this Ordinance to violate or fail to comply with any such rules or regulations lawfully promulgated hereunder. (Ord. 360, 5-1-1978)

## CHAPTER 14

**CABLE TELEVISION OCCUPATION TAX**

## SECTION:

- 3-14- 1: Power To License
- 3-14- 2: License Required
- 3-14- 3: Rate Of Tax
- 3-14- 4: Deductions
- 3-14- 5: Payment Of Tax
- 3-14- 6: Records Kept
- 3-14- 7: Failure To Pay Tax; Penalty
- 3-14- 8: Payment In Error
- 3-14- 9: Franchise Ordinance Amendment
- 3-14-10: Penalty

3-14-1: **POWER TO LICENSE:** This Chapter shall be deemed to be an exercise of the police and revenue power of the City and should any of the provisions of this Chapter be declared unconstitutional or null and void by a court of competent jurisdiction, such declaration shall not affect any other provisions of this Chapter. (Ord. 378, 11-19-1979)

3-14-2: **LICENSE REQUIRED:** From and after December 1979, no person shall engage in or carry on any business occupation act or privilege for which a tax is imposed by Section 3-14-3 of this Chapter without first having obtained and being holder of a license to do so, to be known as an occupation license. Each such person shall promptly apply to the City Clerk for such license upon forms the City Clerk shall prepare and provide, giving such information as the Clerk shall deem reasonably necessary to enable the Clerk to administer and enforce this Chapter, and upon acceptance of such application by the Clerk, the Clerk shall thereupon issue such license to the applicant. Such occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in said business and shall comply with the terms of this Chapter. (Ord. 378, 11-19-1979)

3-14-3:       **RATE OF TAX:** From and after December 1979, there is hereby levied upon and shall be collected from every person engaged in the carrying on of the construction, operation and maintenance of a cable television system within, or partly within, the corporate limits of the City, an annual tax for the privilege of so doing, such tax being equal to five percent (5%) of the total gross revenues raised from subscriptions to the construction, operation or maintenance of a cable television system carried on within, or partly within, the corporate limits of the City, whether said subscriptions be for industrial, commercial or residential cable television service. (Ord. 378, 11-19-1979)

3-14-4:       **DEDUCTIONS:** In computing the annual tax there shall be deducted from said gross operating revenue the following items:

- A.   The amount of credit losses and uncollectible accounts and taxes sustained by the taxpayer for subscriptions within, or partly within, the corporate limits of the City.
- B.   Amounts derived from transactions in interstate or foreign commerce or from any business which the City is prohibited from taxing under the Constitution of the United States of America, or the laws of the State of Washington.
- C.   Amounts received in excess of five hundred dollars (\$500.00) per month from any one customer. (Ord. 378, 11-19-1979)

3-14-5:       **PAYMENT OF TAX:** The tax or license imposed hereunder shall be due and payable in twelve (12) installments and remittance therefor shall be made on or before the twentieth day of the month next succeeding the period in which the tax or license fee accrued. The taxpayer on or before said due date shall make out a return on such forms as shall be provided by the City Clerk and shall set forth such information as the City Clerk may require, showing the amount of the tax for which the taxpayer is liable, and shall sign and transmit said return to the City Clerk, together with the remittance for the amount of the tax or license. (Ord. 378, 11-19-1979)

3-14-6:       **RECORDS KEPT:** Each taxpayer shall keep records reflecting the amount of gross operating revenues of such taxpayer and such records shall be open at all reasonable times to the inspection of the

City Clerk, or the duly authorized subordinate of the City Clerk, for verification of tax returns, or the fixing of the tax of a taxpayer who shall fail to make such returns. (Ord. 378, 11-19-1979)

3-14-7:       **FAILURE TO PAY TAX; PENALTY:** If any person subject to this Chapter shall fail to pay any tax required by this Chapter within thirty (30) days after the due date thereof, there shall be added to such taxes a penalty of ten percent (10%) of the amount of such tax and any tax due under this Chapter and unpaid, and all penalties thereon shall constitute a debt to the City which may be collected by court proceedings, which remedy shall be in addition to all other remedies available to the City. (Ord. 378, 11-19-1979)

3-14-8:       **PAYMENT IN ERROR:** Any money paid to the City through error or otherwise not in payment of the tax liability imposed hereby, or in excess of such tax liability, shall upon the request of the taxpayer, be credited against any taxes due, or to become due, from such taxpayer hereunder, or upon the taxpayer's cessation of business within, or partly within, the City, be refunded to the taxpayer. (Ord. 378, 11-19-1979)

3-14-9:       **FRANCHISE ORDINANCE AMENDMENT:** Section XII of Ordinance 358, an ordinance granting a franchise to Ranier Valley Cable T.V., Inc., shall be and the same is hereby amended to the extent that it is in any way inconsistent with the terms and conditions of this Chapter. (Ord. 378, 11-19-1979)

3-14-10:      **PENALTY:** Any person subject to this Chapter who shall fail or refuse to apply for an occupational license, or to make said tax returns, or to pay said tax when due, or who shall make any false statement or representation in or in connection with any such application for an occupational license, or such tax return, or shall otherwise violate or refuse or fail to comply with this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00). (Ord. 378, 11-19-1979)

## CHAPTER 15

**LEASEHOLD EXCISE TAX**

## SECTION:

- 3-15-1: Rate Of Tax
- 3-15-2: Payment Of Tax
- 3-15-3: Tax Imposed
- 3-15-4: State Laws Adopted
- 3-15-5: Interest Exempted
- 3-15-6: Inspection Of Records

3-15-1: **RATE OF TAX:** There is hereby levied, and shall be collected a leasehold tax on and after January 1, 1980, upon the act or privilege of occupying or using publicly owned real or personal property within the corporate limits of the City through a "leasehold interest" as defined by the laws of the State of Washington, section 2, chapter 61, Laws of 1975-76, Second Extraordinary Session, and Revised Code of Washington 82.29A.020. (Ord. 382, 12-3-1979)

3-15-2: **PAYMENT OF TAX:** The tax imposed by this Chapter shall be paid, collected and remitted to the Department of Revenue of the State of Washington at the time and in the manner prescribed by section 5 of the State Act. (Ord. 382, 12-3-1979)

3-15-3: **TAX IMPOSED:** The rate of tax imposed by Section 3-15-1 of this Chapter shall be four percent (4%) of the taxable rent as defined in section 2 of the State Act, provided, that the following credits shall be allowed in determining the tax payable:

- A. With respect to a leasehold interest arising out of any lease or agreement, the terms of which were binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated (as defined by section 2 of the State Act) since that date and excluding from said credit: 1) any leasehold interest arising

out of any lease of property covered by the provisions of Revised Code of Washington 28B.20.394, and 2) any lease or agreement including options to renew which extends beyond January 1, 1985 as follows:

With respect to taxes due in calendar year 1980, a credit equal to twenty percent (20%) of the tax produced by the above rate.

- B. With respect to a product lease as defined by section 2 of the State Act, a credit of thirty three percent (33%) of the tax produced by the above rate. (Ord. 382, 12-3-1979)

3-15-4:       **STATE LAWS ADOPTED:** For the purpose of this Chapter the laws of the State of Washington, chapter 61, Laws of 1975-76, Second Extraordinary Session, shall be, and the same are hereby adopted by reference and said laws shall herein be designated "The State Act".

Not less than three (3) copies of the State Act shall be held in the office of the City Clerk/Treasurer for inspection and use by the citizens of the City. (Ord. 382, 12-3-1979)

3-15-5:       **INTEREST EXEMPTED:** Leasehold interest exempted by section 13 and Revised Code of Washington 82.29A.130 as it now exists, or may hereafter be amended, shall be exempt from the tax imposed pursuant to Section 3-15-1 of this Chapter. (Ord. 382, 12-3-1979)

3-15-6:       **INSPECTION OF RECORDS:** The City hereby consents to the inspection of such records as are necessary to qualify the City for inspection of records of the Department of Revenue pursuant to Revised Code of Washington 82.32.330, and the Mayor is hereby authorized to execute a contract with the Washington State Department of Revenue for the administration and collection of the tax imposed, provided, that the City Attorney shall first approve the form and content of said contract. (Ord. 382, 12-3-1979)

## CHAPTER 16

**WATER, SEWER OR GARBAGE UTILITY TAX**

## SECTION:

- 3-16-1: Tax Imposed
- 3-16-2: Rate Of Tax
- 3-16-3: Tax Assessed
- 3-16-4: Payment Of Tax
- 3-16-5: Failure To Pay Tax; Penalty

3-16-1: **TAX IMPOSED:**

- A. Water And Sewer: From and after the effective date of this chapter, there is hereby levied upon, and shall be collected from, every customer utilizing the water and sewer services furnished by the city, a utility tax which shall be based upon the total dollar amount of charges assessed by the city to each and every customer for the use of the city's water and sewer services furnished to that customer. (Ord. 384, 2-18-1980; amd. Ord. 644, 11-17-2003, eff. 11-27-2003)
- B. Garbage Collection Service: There is levied and shall be collected upon every person or entity engaged in or carrying on the business of garbage collection service within the city of Toledo a tax which shall be paid to the city. (Ord. 644, 11-17-2003, eff. 11-27-2003)

3-16-2: **RATE OF TAX:**

- A. Water And Sewer: The utility tax defined in subsection 3-16-1A of this chapter shall be equal to five percent (5%) of the total gross amount assessed monthly or bimonthly of charges for use of the city's water and sewer services furnished to each and every customer by the city. (Ord. 384, 2-18-1980; amd. Ord. 644, 11-17-2003, eff. 11-27-2003)
- B. Garbage Collection Service: This tax is equal to five percent (5%) of the total gross income derived from the garbage collection business. (Ord. 644, 11-17-2003, eff. 11-27-2003)

**3-16-3: TAX ASSESSED:** The water and sewer utility tax defined in subsection 3-16-1A of this chapter shall be assessed monthly or bimonthly to each and every customer of the city by tabulating the gross dollar amount of the charges due and owing by said customer for the monthly or bimonthly billing period and adding to said amount the tax due in the percentage set forth in subsection 3-16-2A of this chapter. (Ord. 384, 2-18-1980; amd. Ord. 644, 11-17-2003, eff. 11-27-2003)

**3-16-4: PAYMENT OF TAX:**

- A. **Water And Sewer:** The water and sewer utility tax imposed by this chapter shall be due and payable on the first day of the month following the month in which utility service was rendered, and shall become delinquent after the fifteenth day of the month following the month of service. (Ord. 384, 2-18-1980; amd. Ord. 644, 11-17-2003, eff. 11-27-2003)
- B. **Garbage Collection Service:** The garbage collection tax imposed by this chapter shall be paid to the city on a quarterly basis not later than the tenth day of the month following the preceding quarter. (Ord. 644, 11-17-2003, eff. 11-27-2003)

**3-16-5: FAILURE TO PAY TAX; PENALTY:**

- A. **Water And Sewer:** In the event the water and sewer utility tax imposed by this chapter remains due and owing to the city by the next regular billing for such tax, the city shall give notice by mail to the delinquent customer that his, or her, water and sewer service shall be terminated fifteen (15) days after the giving of such notice. If the tax, including any additional tax assessed for service furnished after the date of the giving of such notice, is not paid in full before the fifteen (15) day period has passed, the service shall be terminated by the city, and service shall not be reinstated until the tax is paid in full and a service charge, consisting of ten percent (10%) of the delinquent tax, has been paid in full, together with such other charges as may be imposed by ordinance for reconnection for supplying water and sewer service to any customer. (Ord. 384, 2-18-1980; amd. Ord. 644, 11-17-2003, eff. 11-27-2003)
- B. **Garbage Collection Service:** For each payment due, if such payment is not made by the due date, there shall be added penalties and interest as follows:

1. For each month that payment is overdue, a penalty of five percent (5%) of the tax due shall be imposed, provided, that the total penalty imposed shall not exceed a total of twenty five percent (25%).

2. In addition to the penalties imposed, interest on the amount due shall accrue at the rate of eight percent (8%) per annum from the date of the delinquency until paid.

3. The mayor is authorized to waive any or all of the penalties and interest provided for herein in the event that the mayor determines that the late payment was a result of excusable neglect or extreme hardship. (Ord. 644, 11-17-2003, eff. 11-27-2003)

## CHAPTER 17

**REAL ESTATE EXCISE TAX**

## SECTION:

- 3-17-1: Tax Imposed  
3-17-2: Use Of Tax  
3-17-3: Fund Created

3-17-1: **TAX IMPOSED:** An excise tax on the sale of real property located within the corporate limits of the City shall be, and the same hereby is, established and imposed in an amount equal to one-quarter of one percent (0.25%) of the selling price of each sale of said real property. The term "sale" and the term "selling price" as used herein shall be as defined in Revised Code of Washington 82.45.010 and 42.45.030 respectively. (Ord. 492, 2-3-1986, eff. 3-1-1986)

3-17-2: **USE OF TAX:** All funds received from the imposition of said excise tax shall be, and the same hereby are, dedicated for Municipal capital improvements. (Ord. 492, 2-3-1986, eff. 3-1-1986)

3-17-3: **FUND CREATED:** A "Municipal Capital Improvement Fund" shall be, and the same hereby is, created and established as a permanent fund of the budget of the City. All funds received from the imposition of said excise tax shall be deposited to said Fund and shall be expended for Municipal capital improvements authorized under Revised Code of Washington 35.43.040. (Ord. 492, 2-3-1986, eff. 3-1-1986)