

**CITY OF BINGEN, WASHINGTON**  
**ORDINANCE NO. 2024-06-755**  
**AN ORDINANCE AMENDING BINGEN MUNICIPAL CODE TITLE 5 – BUSINESS TAXES,**  
**LICENSES AND REGULATIONS**

**WHEREAS**, the Bingen City Council has reviewed Bingen Municipal Code Title 5 – Business Taxes, Licenses and Regulations and has found that it is outdated;

**NOW, THEREFORE**, the City Council of the City of Bingen do ordain as follows:

**Section 1.** Title 5 of the Bingen Municipal Code (BMC) is incorporated here by reference and by such reference set forth at full length.

**Section 2.** Title 5 as currently written is repealed and hereafter shall read as follows:

**BINGEN MUNICIPAL CODE**

**Title 5**

**BUSINESS TAXES, LICENSES AND REGULATIONS**

**Chapters:**

- 5.02 Yard and Garage Sales
- 5.04 Business and Occupation License
- 5.06 Mobile/Street Vendors
- 5.08 Natural Gas Utility Tax (repealed, see Chapter 5.10, Utility Taxes)
- 5.10 Utility Taxes
- 5.12 Cable Television Services Tax (repealed, see Chapter 5.10, Utility Taxes)
- 5.20 Public Dances, Public Dancing and Dance Halls (repealed)
- 5.24 Liquor Regulations

**Chapter 5.02**

**YARD AND GARAGE SALES**

**Sections:**

- 5.02.010 Definitions
- 5.02.020 Frequency – Hours.
- 5.02.030 Placards and advertising.
- 5.02.040 Permit – Required.
- 5.02.050 Permit – Canceled and rescheduled sale.
- 5.02.060 Patio sales, rummage sales, etc.
- 5.02.070 Violation – Penalty.

**5.02.010 Definitions.**

As used in this chapter:

“Person” means any corporation, individual or members of a family residing in a household conducting a sale.

“Yard/garage sale” means and includes the commonly understood meaning of both terms and means any retail sale of personal property conducted in or near a residence, under cover, partially under cover or completely outside of any residential building, in the open. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold. (Ord 449 §2 (part), 1998).

**5.02.020 Frequency – Hours.**

No person shall operate, conduct, manage or permit a yard/garage sale upon his premises or any other property under his control more often than three times during any twelve-month period and the sale shall not continue for a period of more than four consecutive days nor more than four days in any month and shall be conducted during daylight hours only. (Ord 449 §2 (part), 1998).

**5.02.030 Placards and advertising.**

No person shall place any cards, placards or signs regarding a yard sale on any property other than the property owned by the person conducting the sale without the consent of the other property owner. Such cards, placards or signs shall not be posted more than seventy-two hours before the sale and shall be removed within twenty-four hours after the close of the sale. (Ord. 449 §2 (part), 1998).

**5.02.040 Permit – Required.**

No less than forty-eight hours before the date of the commencement of the yard or garage sale, any person desiring to hold a yard/garage sale shall apply for a permit from the office of the city clerk, who shall notify the police department of such application. Within forty-eight hours of application, the police department shall notify the city clerk whether the sale may create a traffic hazard. Unless the police department notifies the clerk that the sale may create a traffic hazard, the city clerk shall promptly issue the permit after said twenty-four hours if the application is otherwise in compliance with this chapter. The time periods specified herein do not include weekends or legal holidays. There shall be no fee for the permit and yard and garage sales and do not require a business license pursuant to Bingen Municipal Code Chapter 5.04. The permit shall be posted in public view at the site of the sale. (Ord. 449 §2 (part), 1998; Ord. 755 §2, 2024).

**5.020.050 Permit – Cancelled and rescheduled sale.**

In the event of inclement weather or other good reason and the sale for which a permit has been issued is not held on the dates or which the permit issued, the person wishing to conduct a sale may utilize the existing permit by notifying the office of the city clerk of the change of date (Ord. 449 §2 (part), 1998; Ord. 755 §2, 2024).

**5.02.060 Patio sales, rummage sale, etc.**

Included in the definition of yard/garage sales are all such sales also known as patio sales, rummage sales, and the like. (Ord. 449 §2 (part), 1998).

**5.02.70 Violation – Penalty.**

Any person found to be in violation of this chapter shall be guilty of a misdemeanor, each day the violation continues shall be considered a separate violation. (Ord. 449 §2 (part), 1998)

**BINGEN MUNICIPAL CODE**

**Chapter 5.04**

**BUSINESS LICENSES**

**Sections:**

- 5.04.010 Purpose.
- 5.04.020 Definitions.
- 5.04.030 Business license required.
- 5.04.040 Businesses located outside city limits.
- 5.04.050 Exemptions.
- 5.04.060 Application – Procedure.
- 5.04.070 Application – Form.
- 5.04.080 Renewal.
- 5.04.090 Fee – Late payment – Reissuance.
- 5.04.100 Term.
- 5.04.110 Change of ownership – Reapplication.
- 5.04.120 Issuance.
- 5.04.130 Posting required.
- 5.04.140 Transient merchants, peddlers, and solicitors.
- 5.04.150 Special events – Master license.
- 5.04.160 Prohibitions upon issuance.
- 5.04.170 Revocation or suspension – Grounds.
- 5.04.180 Appeal.
- 5.04.190 Violation – Penalty.

**5.04.010 Purpose.**

The purpose of this chapter is to regulate and ensure the legal conduct of businesses, assist in the effective administration of health, fire, building, zoning and other codes of the city, to impose fees for revenue purposes, and to provide a means for obtaining public information and compiling statistical information on existing and new businesses in the city. (Ord. 189 §13, 1970; Ord. 669 §2, 2016; ; Ord. 755 §2, 2024).

**5.04.020 Definitions.**

Except as otherwise expressly declared or clearly apparent from the context in which used, the following definitions shall be applied in construing the provisions of this chapter:

- A. “Business” means and includes all services and activities engaged in with the object of pecuniary gain, benefit or advantage to the person, or to another person or class, directly or indirectly,

whether part time or full time. Any enterprise that meets the general definition of “business” shall be considered a separate and distinct business subject to the requirements of this chapter; provided, that a component or incident part of a separate business shall not itself be considered a separate business. For the purposes of this chapter, nonprofit organizations shall also be included under the term “business.” For purposes of this chapter, the owner of one or more businesses or a vacation rental unit as defined by Chapter 5.16 BMC located within the city shall be considered to be engaged in a “business.”

- B. “Engaged in business” means every act within the city engaged in for the purpose of business including, but not limited to commencing, conducting or continuing in business or carrying on of any form of activity for gain, profit or advantage, whether direct or indirect. Businesses or people providing services to people or property within the city, operating from premises located within the city, soliciting business within the city, or using either a telephone number or business address within the city shall be presumed to be engaged in business within the city (Ord. 755 §2, 2024).
- C. “Peddler” means any person with no fixed place of business who goes from house to house, from place to place or from state to state, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers.
- D. “Person” means one or more natural persons of either sex, corporations, partnerships, associations or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.
- E. “Registered solicitor” means and includes any person or business who has obtained a valid license as provided in this chapter.
- G. “Solicitor” means any person who goes from house to house, from place to place, or from state to state, soliciting, taking or attempting to take orders for any goods, wares or merchandise, including books, periodicals, magazines or person property of any nature whatsoever, including any services for future delivery.
- H. “Special event” means any event or activity which is organized primarily for the purpose of promoting cultural, artistic or entertainment endeavors, including, but not limited to, arts and crafts fairs, cultural exhibitions, vocal or instrumental concerts, shows, festivals and camps, and is open to members of the public. Special events are not limited to those events conducted on public streets or in public buildings but may include events occurring entirely on private property.
- I. “Temporary business” means any business other than a solicitor, peddler or transient merchant that engages in business activity within the city for a period of not more than three consecutive days.
- J. “Transient merchant” means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the city, and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure or vacant lot, motor vehicle, or trailer. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

#### **5.04.030 Business license required.**

It is unlawful for any person to conduct, operate, engage in or practice any business in the City of Bingen without first having obtained a business license from the city.

- A. If more than one business is conducting on a single premises, a separate license shall be required for each separate business conducted, operated, engaged in or practiced.
- B. If business is transacted at two or more places by a person within the city, a separate license shall be required for each place at which business is transacted.
- C. Different activities, occupations, trades, professions or pursuits (collectively, “undertakings”), although carried on at a single physical location, shall be deemed separate businesses, each requiring a separate business license. In determining whether separate business licenses shall be required for such undertakings in accordance with this subsection, the city may consider any relevant factors including without limitation:
  - 1. Whether the undertakings have differing names;
  - 2. Whether the undertakings have separate signage or other advertisement; and
  - 3. Whether the undertakings have different owners. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.040 Businesses located outside city limits.**

Unless otherwise exempt, this chapter covers and applies to any business located outside the city that engages in any business activity inside the city limits of the City of Bingen. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.050 Exemptions.**

- A. The provisions of this chapter shall not apply to:
  - 1. Delivery persons, and the delivery of goods by vehicle to a customer or client by a business where the sale occurred on a business premise outside of the city and the only event occurring within the city is delivery.
  - 2. Any minor engaging in a de minimis entrepreneurial venture with permission of the property owner, including but not limited to such trade and activities as running a lemonade stand.
  - 3. The United States or any instrumentality thereof and the state of Washington or any political subdivision thereof.
  - 4. Any farmer, gardener or other person to sell, deliver or peddle any fruits, vegetables, berries, eggs or any farm produce or edibles raised, gathered, produced or manufactured by such person pursuant to RCW 36.71.090.
  - 5. Yard and garage sales conducted on residential premises in compliance with Bingen Municipal Code 5.02.
  - 6. Taxi, limousine, airporter, or other similar services where the business operates from premises located outside the city.
  - 7. Sales of goods or services by mail, telephone, internet, or similar means where the seller operates from premises outside the city and the only event occurring within the city is receipt of such goods and services.

8. Provision of internet or wireless phone services where the provider operates from premises located outside the city and the only event occurring within the city is receipt of such services.
  9. Persons engaged to act as agents, officials, or representatives of the city. (Ord. 692 §1, 2019).
- B. The license fee portion of this chapter shall not apply to:
1. Nonprofit and not-for-profit activities and fundraising sales carried on by religious, charitable, educational, benevolent, fraternal or social organizations which are registered with the state of Washington Secretary of State as a nonprofit corporation.
  2. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of business within the city. (Ord. 692 §1, 2019)
- C. In addition to the other exemptions set forth in this section, the requirements of this chapter shall not apply to any activity or person to the extent that such application (1) would be clearly preempted by state or federal law, or (2) would violate the state or federal constitutional rights of a person.
- D. Any person claiming an exemption from the requirements of this chapter shall bear the burden of demonstrating the person's entitlement to such exemption by providing appropriate documentation and/or legal authority to the city. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).
- E. Exemption under this Section does not apply to regulatory license requirements or activities that require a specialized permit. (Ord. 692 §1, 2019)

**5.04.060 Application – Procedure.**

- A. Bingen is a partner city with the Washington State Department of Revenue. All business licenses are issued through the Department of Revenue. The City of Bingen requires both a Washington State business license and a City of Bingen endorsement (Ord. 755 §2, 2024).
- B. The mayor or designee shall approve or deny the license through the Washington State Department of Revenue Partner Portal or future tool created for such purpose (Ord. 755 §2, 2024).
- C. Neither the filing of an application or a license nor the payment of the fee shall authorize a person to engage in or conduct a business until such license has been granted (Ord. 189 §13, 1970; Ord. 669 §2, 2016; Ord. 755 §2, 2024).

**5.04.070 Application – Form.**

The business license application form is created, maintained, and managed by the Washington State Department of Revenue (Ord. 755 §2, 2024).

**5.04.080 Renewal.**

- A. Business licenses are created and renewed by the Washington State Department of Revenue on a rolling calendar (Ord. 755 §2, 2024).
- B. Neither the filing of an application for renewal nor the payment of a renewal fee shall, of itself, authorize a person to engage in or conduct a business.
- C. The Washington State Department of Revenue shall send out renewal notices as licensees near their expiration date (Ord. 755 §2, 2024).

**5.04.090 Fee – Late Payment – Reissuance.**

- A. The fee for the original license required by this chapter shall be forty dollars (\$40.00). The fee for annual renewal of the license shall be forty dollars (\$40.00).
  - 1. Any person or business meeting the exemption requirements of Section 5.04.050(B) shall submit an application for a business license to the City Clerk or his designee but shall not be charged a fee for the original business license.
  - 2. Any person or business meeting the exemption requirements of Section 5.04.050(B) shall not be charged a fee for the annual renewal of a business license, provided that the person or business continues to meet the requirements for exemption.
  - 3. Any person or business issued a business license under the exemption of Section 5.04.050(B)(2) and at any time during that year exceeding the threshold for exemption under that Section, no longer qualifies as exempt and shall be charged a fee of forty dollars (\$40.00) for that year. (Ord. 692 §1, 2019)
- B. All businesses required to obtain annual licenses under this chapter shall obtain the same and pay all fees required each respective year. Any business who fails to obtain and pay the license fees shall, in addition to any other penalties provided in this chapter, be assessed a sum of twenty dollars (\$20.00) per month such late application and/or payment is overdue until paid (Ord. 755 §2, 2024)
- C. Any business relocating to another address in the city shall pay no fee to have a new business license reissued to reflect the new address. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.100 Term.**

All business licenses issued pursuant to the provisions of this chapter shall be valid for one year from the date of issue, on a rolling basis, and renewals shall be for a period of one year commencing from the renewal date (Ord. 189 §13, 1970; Ord. 669 §2, 2016; Ord. 692 §1, 2019; Ord. 755 §2, 2024).

**5.04.110 Change of ownership – Reapplication.**

Upon the sale or transfer of any business licensed pursuant to this chapter, the license issued to the prior owner or transferor shall automatically expire on the date of such sale or transfer and the new owner intending to continue such business in the City of Bingen shall apply for an obtain a new business license

pursuant to the procedures established by this chapter prior to engaging in, conducting or operating the business. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.120 Issuance.**

Each license shall be numbered and shall show the name and place of business of the licensee and shall provide for only such information as deemed necessary to administer the provisions of this chapter. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.130 Posting required.**

Each person required to obtain a business license under this chapter shall at all times post such business license in a conspicuous place at the place of business for which it is issued. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.140 Transient merchants, peddlers and solicitors.**

- A. License required. It is unlawful and a nuisance for any person to engage in commercial or business solicitation and/or canvassing, calling at residences without the previous consent of the occupant for purposes of soliciting orders, sales, subscriptions or business commercial information without first obtaining a business license with the city. The applicant shall provide a written signed application stating:
  - 1. The name, address, telephone number, e-mail address and contact person for the principal applicant;
  - 2. The nature of the products or services involved, the names of the manufacturers, if any;
  - 3. The proposed method of operation in the city;
  - 4. List of persons who will solicit or canvass in the city, including each person's name, address, telephone number, and e-mail address; a general description of each person; and
  - 5. Any other information required by the city.
- B. Identification. Each peddler, solicitor, or transient merchant shall not conduct business within the city limits without possessing a valid copy of their business license at all times.
- C. Hours of Operation. Peddlers, solicitors, or transient merchants shall not operate within the city limits between the hours of 8:00 p.m. and 8:00 a.m. unless engaged in a prearranged appointment with an intended customer.
- D. No Soliciting Signs Compliance. No peddler, solicitor or transient merchant shall contact any residence that is posted by signage that such contacts are not desired by the residents.
- E. Use of Streets, Parks or Rights-of-Way. No peddler, solicitor or transient merchant shall have any exclusive right to any location in the public streets, parks or public rights-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations may impede or inconvenience the public. For the purpose of this section, the judgment of any officer of the Bingen-White Salmon Police Department, Klickitat County Sheriff's Office, and/or



Washington State Patrol, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.

- F. Exemption. Charitable, religious, nonprofit organizations, any political campaign on behalf (or in opposition to) any candidate for public office or other similar civic, charitable, or nonprofit organizations shall be exempt from all provisions of this section except the section pertaining to compliance with “No soliciting” signage. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.150 Special event – Master license.**

- A. A master license shall be required for all special events held within the city limits of Bingen which must utilize multiple dealers or vendors. Requirements of the special event master license are as follows:
1. The promoter, sponsor or other person, firm, company, corporation or legal entity of whatsoever nature or kind organizing, managing, operating or conducting any convention, show or sale, circus, parade, carnival games/rides, street fairs, sidewalk sales or other promotional activity or special event within the city shall obtain a special event master license to cover all dealers/vendors involved in the activity/special event.
  2. Dealers/vendors participating in a convention, show, sale or other promotional activity or special event shall be covered under the special event master license and shall not be required to have separate licenses for the event.
  3. The city reserves the right to charge any sponsor of a special event direct costs incurred by the city as a result of the event. Such costs may include, but are not limited to, the cost of barricading streets, police officers to direct or block pedestrian or vehicular traffic, plan reviews, or other public safety involvement such as standby aid cars, fire protection services or cleanup.
  4. The sponsor of the special event shall provide the mayor or designee with a list of all participating dealers/vendors at least ten days prior to the event. The list shall include the vendor’s name, business name (if appropriate), mailing address, telephone number and state sales tax number. A map or layout of booths and booth numbers and the business in that booth shall also be provided, if appropriate. Only those dealers/vendors listed on the application or its amendments are approved under the special event master license.
  5. No license shall be issued to any person, firm, company or corporation to run, operate, conduct or manage any show, exhibition, game or other special event within the city which is in violation of any provision of the Bingen Municipal Code, Klickitat County Code and/or Revised Code of Washington.
  6. Any person, firm, company or corporation receiving a special event master license pursuant to this chapter shall be required to provide a certificate of insurance with a minimum liability coverage of five hundred thousand dollars (\$500,000) combined single limit bodily injury and property damage, including products liability if food and/or beverage vending is part of the special event or public activity. Greater or lesser coverage may be required based upon an objective assessment of risk to the public health, safety and welfare of the special event. The certificate of insurance shall name the city as an

additional insured if the license is for a special event held on city property or utilizing city employees.

7. The following special events shall be exempt from the requirements to obtain a special event master license under this chapter:
  - a. dances or other social events conducted by schools or churches;
  - b. temporary sales conducted by businesses, such as holiday sales, grand opening/closing business sales or anniversary sales;
  - c. one-day bazaars or arts and craft shows sponsored by churches, lodges or other nonprofit social groups;
  - d. yard sales and garage sales as regulated under Bingen Municipal Code 5.02;
  - e. organized amateur sporting events such as little league baseball, amateur soccer, and day camps using the city's park;
  - f. charitable, religious or nonprofit organizations on premises under their control; and
  - h. other similar events and activities which do not directly affect or use city services.

- B. All applications for a special event master license shall be accompanied by a nonrefundable application fee of twenty-five dollars (\$25.00); provided, that the application fee may be waived if, in the opinion of the mayor or designee, the imposition of such fee will create an undue hardship for the applicant. (Ord. 189 §13, 1970; Ord. 669 §2, 2016; Ord. 692 §1, 2019).

#### **5.04.160 Prohibitions upon issuance.**

Notwithstanding any other provisions of this chapter, a license hereunder may not be issued to or held by 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 provision of the Bingen Municipal Code, Klickitat County Code, Revised Code of Washington or any other applicable law or regulation. The granting of a business license shall not authorize any person to engage in any activity prohibited by federal, state or local law or regulation. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

#### **5.04.170 Revocation or suspension – Grounds.**

The mayor or designee may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any officer, employee or partner thereof:

- A. Has violated any city, county, state and/or law, statute and/or regulation upon the business premises stated in the license or in connection with the business stated in the license, whether or not the licensee, or officer or partner thereof, has been convicted in any court of competent jurisdiction of such violation;

- B. Is or has conducted, engaged in or operated the business state in the license upon the premises, which do not conform to the Bingen Municipal Code;
- C. Has maintained or permitted the business state in the license to be conducted, engaged in or operated in such a manner as to constitute a public nuisance; or
- D. Has made any material false statement or representation in connection with obtaining the license. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.180 Appeal.**

- A. Whenever the mayor or designee determines that there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the mayor or designee shall notify the person holding the license by registered or certified mail, return receipt requested, of the determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the grounds for suspension, denial or revocation.
- B. The licensee or applicant may appeal the decision of mayor or designee to deny, suspend or revoke a business license by filing a written notice of appeal to the city council within ten (10) calendar days of the mayor or designee’s decision.
- C. Upon timely receipt of the notice of appeal, the mayor or designee shall set a date for hearing the appeal. The mayor or designee shall mail notice of the date of the hearing to the licensee at least twenty (20) calendar days prior to the hearing date.
- D. The appeals hearing shall be de novo, as the city council may affirm, reverse, or modify the mayor or designee’s decision.
- E. The decision of the city council shall be final. Any person desiring to appeal must file an appropriate action in Klickitat County Superior Court within fourteen (14) calendar days of the city council’s decision.
- F. Following revocation, no business license shall be issued for a period of twelve (12) months to the person or business entity whose license was revoked, or to any business entity owned or controlled by such person or entity. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.01.190 Violation – Penalty.**

- A. Any person, as defined in this chapter, and the officers, directors, managing agents, or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any of the provisions of this chapter shall have committed a civil infraction and, upon a determination by the judge of West Klickitat County District Court that such infraction has been committed, shall pay a civil monetary penalty to the city of a sum not to exceed two hundred dollars (\$200.00). In addition, each and every day during any portion of which a violation of any provision of this chapter is committed, continued or permitted constitutes a separate infraction. Penalties collected pursuant to this section shall be deposited in the city’s general fund to be used for general purposes of the city.

- B. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a public nuisance and all remedies give by law for the prevision and abatement of nuisances shall apply thereto.
- C. Any person deemed to have committed a civil infraction under subsection A of this section who shall fail to come into compliance, or remain in compliance, with the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a term not exceeding ninety (90) days in jail or by a fine in an amount not more than one thousand dollars (\$1,000.00) or by both such jail and fine. Each day that such condition or violation continues shall be regarded as a new and separate offense and shall be punishable accordingly. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**Chapter 5.06  
MOBILE/STREET VENDORS**

**Sections:**

- 5.06.010 Purpose.
- 5.06.020 Definitions.
- 5.06.030 Applicability.
- 5.06.040 Exemptions.
- 5.06.050 Display of license.
- 5.06.060 Geographical restrictions.
- 5.06.070 Number of mobile/street vendor licenses to be issued per year.
- 5.06.080 Operating conditions.
- 5.06.090 Health and safety standards.
- 5.06.100 Application.
- 5.06.110 License fee.
- 5.06.120 License renewals.
- 5.06.130 License revocation.
- 5.06.140 Infraction – Penalty.

**5.06.010 Purpose.**

The purpose of this chapter is to:

- A. Encourage small business by providing opportunities that do not require a permanent structure; and
- B. Promote public safety and ensure the orderly and unhindered movement of pedestrians and vehicles. (Ord. 635 §1, 2014).

**5.06.020 Definitions.**

- A. “Vending unit” means a movable cart, kiosk, tent, trailer, vehicle or other structure from which business is conducted. The maximum permissible size for any vending unit shall be 144 square feet, including storage, furniture, seating, and other appurtenances. The vending unit within a licensed motor vehicle shall exclude non-business related areas such as a driving compartment.
- B. “Street vendor” means a person, firm or corporation who engages in a business of selling goods of any kind or description and who commonly conducts such business from a vending unit. A

person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with a storefront business or by conducting such temporary business in connection with, as part of, or in the name of the storefront business. (Ord. 635 §1, 2014).

**5.06.030 Applicability.**

- A. It shall be unlawful for any person to act as a mobile/street vendor within the meaning and application of this chapter unless that person or his/her employer shall have first secured a vending license in the manner provided in this chapter.
- B. Such license shall be carried at all times when vending in the City of Bingen, and shall be exhibited by any such mobile/street vendor whenever requested to do so by any police officer.
- C. All persons acting as mobile/street vendors shall comply with all federal, state, and local laws, ordinances and regulations, including all health requirements.
- D. This chapter does not apply to mobile/street vendors who are located on private property and have obtained the appropriate city business license. (Ord. 635 §1, 2014).

**5.06.040 Exemptions.**

The following persons shall be exempt from license applications and fees but are still subject to federal, state and county health regulations:

- A. Any farmer, gardener or other person who sells any fruits, vegetables or other farm produce or edibles produced by such person and exempt pursuant to RCW 36.71.090.
- B. Exempt persons are exempt only from city business licensing requirements and must comply with all other provisions of law, ordinance and regulations and all applicable federal, state and county health regulations.
- C. The city may, at its sole discretion, incorporate vendor licenses or conditions of approval within special event permits to address street vendors at special events. (Ord. 635 §1, 2014).

**5.06.050 Display of license.**

All licenses for mobile/street vendors shall be prominently displayed upon all vending units from which a mobile/street vendor conducts business. (Ord. 635 §1, 2014).

**5.06.060 Geographical restrictions.**

No mobile/street vendor license shall include the privilege to conduct the business of a mobile vendor unless the vehicle or conveyance is parked and operated in full compliance with the traffic and sidewalk ordinances of the city as now in effect or as hereafter amended. It is a violation of this chapter for any person selling or offering for sale any article to obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where any article is being sold or offered for sale. No merchandise will be offered, displayed, or sold, and no customers served, in any vehicle travel lane. Mobile/street vendors will be allowed in the following locations on an application based on first come/first served:

- A. The south side of the 400 block of W. Humboldt from west of 403 W. Humboldt to Willow Street.
- B. 400 W. Steuben (city owned property) – not to be located on the street.
- C. Mobile vendors (not remaining stationary for more than 30 minutes) are allowed to park/pass through all of the city streets with the exception of Steuben and Oak. (Ord. 635 §1, 2014).

**5.06.070 Number of mobile/street vendor licenses to be issued per year.**

- A. The number of stationary street vendor licenses to be issued per year shall be limited to four (4).
- B. The number of mobile vendors (not remaining stationary for more than 30 minutes) shall be limited to two (2).
- C. The license application period opens January 1 of each year and once the full number of licenses has been issued the application period will be closed. (Ord. 635 §1, 2014).

**5.06.080 Operating conditions.**

Any person with a valid mobile/street vendor license issued pursuant to this chapter shall be subject to the following conditions:

- A. All mobile/street vendors shall display, in a prominent and visible manner, the license issued by the city under the provisions of this chapter.
- B. Mobile/street vendors are limited to selling food and beverage items must be capable of immediate consumption. No other merchandise is authorized to be sold through mobile/street vendors.
- C. The vending site shall be clean and orderly at all times and the vendor shall provide a refuse container for use by patrons. Mobile/street vendors are responsible for disposing all refuse in an appropriate manner. Refuse collected by the mobile/street vendor is not to be disposed of in any city street garbage cans or garbage cans located within the city park.
- D. Soliciting or conducting business with persons in motor vehicles is prohibited (i.e. service must be provided to walk-up patrons, no drive through service is allowed).
- E. No food or beverages shall be displayed using street furniture (planters, street lights, trees, trash containers, etc.) or placed upon a sidewalk. No use of any automatic coin-operated vending dispense is allowed.
- F. Vendors shall obey any lawful order from a police officer or Fire Department official during an emergency or to avoid congestion or obstruction of a sidewalk.
- G. Utility service connections are not allowed.
- H. Signs or banners may be attached to the vending unit for the purpose of advertising or identifying the vending unit. Streamers, balloons, etc. are not allowed. No off-site advertising is allowed.

- I. The footprint of the mobile/street vending site is subject to the area constraints of the vending site location provided in the application but in no event shall a vending site footprint exceed two hundred (200) square feet.
- J. Mobile/street vending units must be removed from the location at the end of the day or selling period.
- K. Tables and chairs are not allowed at the mobile/street vending site.
- L. Mobile/street vendors are allowed to operate from 8:00 a.m. to 8:00 p.m. (Ord. 635 §1, 2014).

**5.06.090 Health and safety standards.**

- A. All mobile/street vendors shall comply with all laws, rules and regulations regarding food handling, and all vehicles, equipment, devices or structures used for the preparation, handling, storage, transportation and/or sale of food shall comply with Chapter 246-215 WAC, as presently worded and as may be amended by law, in addition to any other rules and regulations respecting such vehicles, equipment, devices, or structures as established by the Klickitat County Health Department and as set forth in the Bingen Municipal Code (Ord. 755 §2, 2024).
- B. Copy of any permits issued by the Klickitat County Health Department shall be provided to the city.
- C. A fire extinguisher is required for all mobile/street vendors using open-flame cooking or cooking products producing grease-laden vapors. (Ord. 635 §1, 2014).

**5.06.100 Application.**

The permit application shall contain the following:

- A. Name and address of the mobile/street vendor including phone number and e-mail address.
- B. Accurate drawing the proposed public area to be used along with plans detailing the design and size of the mobile/street vending unit.
- C. City of Bingen Business License.
- D. Washington State Unified Business Identification number.
- E. Klickitat County Health Department permit(s) if required by the Health Department.
- F. A certificate of insurance naming the city as an additional insured. The minimum liability coverage must be five hundred thousand dollars (\$500,000) combined single-limit bodily injury and property damage, including products liability if food vending. A certificate of insurance shall be provided to the city for review prior to the issuance of a license. (Ord. 635 §1, 2014).

**5.06.110 License fee.**

- A. The license fee for a stationary mobile/street vendor that will remain stationary during the day is \$240.00 per year.
- B. The license fee for a mobile/street vendor remaining stationary for no longer than 30 minutes at a time shall be \$100.00 per year. (Ord. 635 §1, 2014).

**5.06.120 License renewals.**

All licenses issued under this chapter are for a calendar year and will expire on December 31. A new application is required each year due to the limitation of licenses and licenses being issued on a first come first served basis. (Ord. 635 §1, 2014).

**5.06.130 License revocation.**

- A. A mobile/street vendor license is wholly of a temporary nature and vests no permanent rights or interest in property. The license of a mobile/street vendor shall, after notice in writing and an opportunity to be heard by the city mayor or the city administrator, be revoked, and such mobile/street vendor shall not be entitled to a subsequent license to engage in business as a mobile/street vendor for one year after such revocation, for any of the following reasons:
  - 1. Fraud or misrepresentation contained in the application for license;
  - 2. Fraud or misrepresentation, or false or misleading statements, made in the course of conducting the licensed business;
  - 3. Conviction of any crime involving moral turpitude in which a minor child was the victim or was otherwise involved;
  - 4. The conduct of business in areas prohibited by this chapter, or
  - 5. Any other violation of this chapter.
- B. The decision of the city mayor or city administrator shall be final subject only to the right of license holder to appeal said decision to the Klickitat County Superior Court within fifteen days of the rendered by the city mayor or city administrator. (Ord. 635 §1, 2014).

**5.06.140 Infraction – Penalty.**

In addition to establishing grounds for revocation of a license, the failure to perform any act required by this chapter, or the performance of any act prohibited by this chapter, is designated as an infraction and may not be classified as a criminal offense. A person found to have committed an infraction under this chapter shall be assessed a monetary penalty. Each day in which a violation of this chapter continues shall be contacted as a separate infraction. Chapter 7.80 RCW is incorporated herein with respect to this section. No penalty assessed for infractions under this chapter may exceed two hundred fifty dollars for each separate infraction. (Ord. 635 §1, 2014).

**Chapter 5.10**

**UTILITY TAXES**

**Sections:**



- 5.10.010 Purpose.
- 5.10.020 Definitions.
- 5.10.030 Businesses subject to tax.
- 5.10.040 Exceptions and deductions from gross income.
- 5.10.050 Monthly returns and payment.
- 5.10.060 Allocation of income for cellular telephone service.
- 5.10.070 Books and records – Inspection and confidentiality.
- 5.10.080 Investigation of returns.
- 5.10.090 Overpayment or under payment.
- 5.10.100 Failure to make return.
- 5.10.110 Appeal to city council.
- 5.10.120 Unlawful acts.
- 5.10.130 Penalty for violation.
- 5.10.140 Rate change.

**5.10.010 Purpose.**

The provisions of this chapter shall be deemed to be an exercise of the power of the City of Bingen to license for revenue, as authorized by Chapter 82.14 RCW(Ord. 593 § 2, 2011; Ord. 755 §2, 2024).

**5.10.020 Definitions.**

Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from context, a more limited or different meaning is clearly defined or apparent. To the extent any term above is inconsistent and preempted by state statute or federal code, the statute or code, as the case may be, most similar to the definition above shall be the definition for that term.

- A. “Administrator” shall mean the city administrator.
- B. “Cable television service” means the one-way transmission to subscribers of video programming and other programming service and subscriber interactions, if any, that is required for the selection or use of the video programming or other programming service.
- C. “Cellular telephone service” means a one- or two-way telecommunications system used to transmit voice and/or data-based signals or content 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, pager services, specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplished a purpose similar to cellular mobile service, including paging. Cellular telephone service shall not include competitive telephone service. (Competitive telephone service” means 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 RCW Title 80 and for which a separate charge is made.)
- D. “Electricity” means the sale of electrical power.

- E. “Gas distribution business” means the business of selling, furnishing, or transmitting gas, whether manufactured or natural (but not including gasoline sales).
- F. “Gross income” means 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 the investment of capital of the business engaged in, including rentals, royalties, fees or other emoluments, receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness or stock and the like and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, taxes, or any expense whatsoever, and without any deduction on account of losses.
- G. “Person” or “persons” means natural persons of either gender, firms, co-partnerships, corporations, municipal corporations, and other associations of natural persons whether acting by themselves or by servants, agents or employees.
- H. “Pager service” means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission.
- I. “Sewerage operation” means operation of sanitary sewer facilities, including collection, treatment and disposal facilities, and combined sanitary and surface water drains and outfalls.
- J. “Solid waste service” means the collection and disposal of putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.
- K. “Water distribution operation” means the business of operating a plant or system for the distribution of water for hire or sale (but does not include any entity distributing water to the City of Bingen for the City to distribute).
- L. “Taxpayer” means any person liable for the license fee or taxes imposed by this chapter.
- M. “Tax year” or “taxable year” means the 12-month period commencing January 1<sup>st</sup> and ending December 31<sup>st</sup> of the same year. (Ord. 593 § 2, 2011).

**5.10.030 Businesses subject to tax.**

To the extent the tax is consistent with federal and state law and with any relevant franchise agreement:

There is hereby levied upon all persons engaged in business activities taxable under this chapter a tax in the amounts to be determined by the application of the respective rates against gross income of such taxpayer derived from the operation of that business. Taxpayers engaged in or carrying on the business shall be charged with collection of the tax as a condition of doing business, and the tax shall be levied thereafter upon their subscribers at the rate set forth below.

- A. Commencing on February 1, 2012, upon every person engaged in or carrying on a telephone business, as defined in RCW 82.04.065, as said statute presently exists or is hereafter amended, a tax equal to six percent of the total gross income, including revenues for intrastate toll, derived

from the operation of such business within the city. To the extent permitted by applicable federal and Washington State law, any telecommunications services provided by a cable operator (as defined in 47 U.S.C. Section 522(5) as now or hereafter amended) or other persons over cable television facilities owned or controlled by a cable operator shall be taxable hereunder.

- B. Commencing on February 1, 2012, upon every person engaged in or carrying on the sale of cellular telephone service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- C. Commencing on February 1, 2012, upon every person engaged in the business of operating or providing pager service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- D. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of cable television service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- E. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of solid waste collection, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- F. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of electricity service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- G. Commencing on February 1, 2102, upon every person engaged in or carrying on the business of gas distribution, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- H. Commencing on January 1, 2012, upon every person engaged in or carrying on the business of sewerage operation (which includes surface water drains and outfalls), a tax equal to ten percent of the total gross income derived from the operation of such business within the city.
- I. Commencing on January 1, 2012, upon every person engaged in or carrying on the business of water distribution operation, a tax equal to six percent of the total gross income derived from the operation of such business within the city. (Ord. 593 § 2, 2011).

**5.010.040 Exceptions and deductions from gross income.**

There shall be excluded from the total gross income upon which the utility tax is computed the following:

- A. Revenues derived from transactions in interstate or foreign commerce, or from business done for the United States and the state of Washington, or their officers or agents or any amounts paid by the taxpayer to the United States and the state, the city or to any political subdivision of the state, as excise taxes levied or imposed upon the sale or distribution of property or services, or as a utility tax.
- B. That portion of gross income derived from charges to another telecommunications company, as defined in RCW 82.04.065 as now or hereafter amended, or connecting fees, switching charges,

or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate service.

- C. Charges incurred by a taxpayer engaging in a telephone business and paid to a telecommunications company, as defined in RCW 82.04.065 as now or hereafter amended for telephone service that the taxpayer purchases for the purpose of resale.
- D. Adjustments made to a billing or to a customer account or a telecommunications company accrual account in order to reverse a billing or a charge that has been made as a result of third party fraud or other crime and was not properly a debt of a customer.
- E. Cash discounts and credit losses actually sustained by a taxpayer on an accrual basis. (Ord. 593 § 2, 2011).

**5.10.050 Quarterly returns and payment.**

- A. The utility tax shall be due and payable at the end of each quarter . The date the tax is remitted to the city is defined as the last day of the month following the end of the quarter. The quarter time period and date the tax is remitted to the city shall be as follows:

Quarter Time Period	Date Tax Remitted
January 1 <sup>st</sup> through March 31 <sup>st</sup>	April 30 <sup>th</sup>
April 1 <sup>st</sup> through June 30 <sup>th</sup>	July 31 <sup>st</sup>
July 1 <sup>st</sup> through September 30 <sup>th</sup>	October 31 <sup>st</sup>
October 1 <sup>st</sup> through December 31 <sup>st</sup>	January 31 <sup>st</sup>

Payment shall be accompanied by a quarterly statement showing the manner in which the quarterly payment is calculated. The quarterly statement shall be upon a form provided by the administrator and shall contain such information as may be necessary to enable the administrator to arrive at the lawful amount of the tax. The taxpayer shall, in a legible manner, provide all information required by the administrator on such returns, shall sign the same, and by affidavit shall swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.

- B. Quarterly returns shall be accompanied by a remittance by bank draft, certified check, cashier's check or money order, payable to the City of Bingen, or in cash, in the amount of the fee or tax owed, including delinquencies and installments.
- C. Payment made by draft or check shall not be deemed a payment of the fee or tax unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as an acquittance or discharge of the fee or tax unless and until the check or draft is honored.
- D. If the applicant is a partnership, returns must be made by one of the partners or designee, if a corporation, by one of the officers or designee thereof; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager or designee of said corporation, copartnership or individual. (Ord. 593 § 2, 2011; Ord. 598 § 1, 2012).

**5.10.060 Allocation of income for cellular telephone service.**

- A. **Service Address.** Payments by a customer for the telephone service from telephones without a fixed location (e.g., cellular telephone service) 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 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 the local of the main cellular switching office that switched the call.
- D. **Dispute Resolution.** If there is a dispute among one or more other cities, and/or the taxpayer, as to the service address of a customer who is receiving cellular telephone services, and the dispute is not resolved by negotiation among the parties, then the dispute shall be submitted to mediation by a mediator acceptable to the parties involved or a majority of them. In the event mediation is not successful or cannot be effected, the dispute shall be resolved by suit in the Superior Court of Klickitat County or in that jurisdiction required by federal or state law governing. The taxpayer shall have no further liability with respect to additional taxes on the disputed revenues, but will charge his or her billing records for future revenues to comport with the resolution of the dispute.
- E. **Authority of Administrator.** The administrator is authorized to represent the city in negotiations with other cities for the proper allocation of cellular telephone service taxes imposed pursuant to this chapter. (Ord. 593 § 2, 2011).

**5.10.070 Books and records – Inspections and confidentiality.**

- A. It is the duty of each taxpayer to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of its gross income, which account shall be open to inspection by the administrator, or his or her designee at a reasonable time, and from which said officer the administrator or his or her designee may verify returns made by the taxpayer.
- B. To the extent permitted by Chapter 42.17A RCW and other applicable statutes, the applications, statements or return made to the administrator pursuant to this chapter shall not be made public, nor shall they be subject to the inspection of any person except the mayor, the city attorney, the administrator, or his or her authorized agent and members of the city council. (Ord. 593 § 2, 2011; Ord. 755 §2, 2024).

**5.10.080 Investigation of returns.**

If any taxpayer fails to apply for a license or make his or her return, or if the administrator is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, the administrator, or his or her designee, may: (A) enter the premises of such taxpayer at any reasonable time for the purpose of inspecting and auditing the taxpayer's books or records to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be; (B) may examine any person under oath administered by the administrator, or his or her designee, touching the matters inquired into; or (c) fix a time and place for an investigation of the correctness of the return, and issue a subpoena to the taxpayer, or any other person, to attend such investigation and testify, under oath administered by the administrator, or his or her agent, in regard to the matters inquired into and may, by subpoena, require

him or her, or any person, to bring with him or her such books, records and papers as may be necessary. In the event that any such audit reveals an underpayment of 10 percent or more, the taxpayer shall, in addition to the penalties provided by this chapter, be responsible for all of the costs associated with the audit, including, but not limited to, staff time and overhead, accounting fees, professional service fees, and attorneys fees. (Ord. 593 § 2, 2011).

**5.10.090 Overpayment or underpayment.**

- A. Overpayment. If the administrator, upon investigation or upon checking returns, finds that the fee or tax paid by a taxpayer is more than the amount required of the taxpayer, he or she shall return the amount overpaid, upon the written request of the taxpayer. Any refund request not submitted within three years of the alleged overpayment shall be forever barred.
- B. Underpayment. If the administrator finds that the fee or tax paid by a taxpayer is less than required, he or she shall send a statement to the taxpayer showing the balance due, together with a penalty of 10 percent of the amount due, and the taxpayer shall, within 10 days, pay the amount shown thereon. If payment is not received by the administrator by the due date specified in the notice, the administrator shall add a penalty of an additional 25 percent of the amount of the additional tax found due. In the event that the balance due, including all penalties, is not paid in full within 30 days from the date specified, the penalty shall be increased by 15 percent of the amount due and the total amount due shall accrue interest at the rate of 12 percent per annum. If the administrator finds that all, or any part of, the deficiency resulted from an intent to evade the tax payable hereunder, a penalty of 50 percent of the additional tax found to be due shall be added and the amounts due, including penalties, shall accrue interest at the rate of 12 percent per annum from the date the tax became due and the date payment is actually made. (Ord. 593 § 2, 2011).

**5.10.100 Failure to make return.**

If any taxpayer fails to make a return or pay the fees or taxes therefor, or any part thereof, the administrator shall ascertain the amount of the fee or tax or installment thereof due and shall notify the taxpayer thereof, who shall be liable therefor in any suit or action by the city for the collection thereof. In the event that any taxes imposed by this chapter remain unpaid, the administrator may defer such claims to a collection agency or to the city attorney for collection. If referred to the city attorney for collection, the city attorney shall, with the assistance of the administrator, collect the same by an appropriate means or by suit or action in the name of the city. In the event that the city prevails on any claim that a taxpayer is in noncompliance with the terms of this chapter, the city shall be entitled to an award of its reasonable attorneys' fees and other professional expenses associated with prosecuting the action. (Ord. 593 § 2, 2011).

**5.10.110 Appeal to city council.**

- A. Any taxpayer aggrieved by the amount of the fee, tax, or penalty found by the administrator to be required under the provisions of this chapter, may appeal to the city council from such finding by filing a written notice of appeal with the administrator within five days from the time such taxpayer was given notice of such amount and paying an appeal fee in accordance with the city's current fee schedule as may be amended from time to time. The city clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not more than 30 days after the filing of the notice of appeal, and the city clerk shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing the taxpayer shall be entitled to be heard and to introduce evidence on his or her behalf. The city council shall

thereupon ascertain the correct amount of the fee, tax, or penalty by resolution and the administrator immediately notify the appellant thereof, which amount, together with costs of the appeal including outside legal, accounting, and other expenses, if the appellant is unsuccessful therein, must be paid within 10 days after such notice is given.

- B. The city council may direct that the appeal hearing provided by subsection (A) of this section be conducted by a hearing officer appointed by the city for that purpose. In such case, the hearing officer shall conduct an evidentiary hearing as provided in subsection (a) of this section and forward findings, conclusions, and a recommendation to the city council for final action. Unless otherwise agreed to by the parties, the hearing office shall convene the hearing within 30 days of the matter being referred by the city council and shall enter his or her written findings, conclusions, and recommendation within 15 days following conclusion of the hearing. Upon receipt of the hearing officer's finding, conclusions and recommendation, the city council shall either adopt the same as their own decision, conduct their own hearing and adopt new findings and conclusions, or remand the matter to the hearing officer for further review.
- C. Any judicial appeal of the city council's final determination of such an appeal shall be filed and served within 21 days of the date of the city council's final vote on the matter, and the taxpayer shall be responsible for payment of the costs associated with producing the city's administrative record therein. (Ord. 593 § 2, 2011).

**5.41.120 Unlawful acts.**

It is unlawful: (A) for any person liable for taxes or fees hereunder to fail or refuse to file returns, or to pay any fee or tax or installment thereof when due; (B) for any person to make any false or fraudulent return or any false statement or representation in, or in connection with, any return; (C) to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof; (D) for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto; (E) to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal; or (F) in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 593 § 2, 2011).

**5.41.130 Penalty for violation.**

Any person violating any of the provisions or failing to comply with any of the requirements of this chapter shall, in addition to being liable for the monetary penalties set forth herein, be guilty of a misdemeanor and upon conviction of such violation or failure be punished by a fine of not more than \$5,000 or by imprisonment not to exceed 90 days or by both such fine and imprisonment. (Ord. 593 § 2, 2011).

**5.10.140 Rate change.**

No change in the rate of tax upon persons engaging in providing services taxable under this chapter shall apply to business activities occurring before the effective date of the change, and, except for a change in the tax rate authorized by RCW 35.21.865 as now or hereafter amended and pursuant to RCW 35A.82.020 as now or hereafter amended, no change in the rate of the tax may take effect sooner than 60 days following the enactment of the ordinance establishing the change. The administrator, or his or her designee, shall send to each taxpayer a copy of any ordinance changing the rate of tax upon taxable services promptly upon its enactment. (Ord. 593 § 2, 2011).

**Chapter 5.02**

**YARD AND GARAGE SALES**

**Sections:**

- 5.02.010 Definitions
- 5.02.020 Frequency – Hours.
- 5.02.030 Placards and advertising.
- 5.02.040 Permit – Required.
- 5.02.050 Permit – Canceled and rescheduled sale.
- 5.02.060 Patio sales, rummage sales, etc.
- 5.02.070 Violation – Penalty.

**5.02.010 Definitions.**

As used in this chapter:

“Person” means any corporation, individual or members of a family residing in a household conducting a sale.

“Yard/garage sale” means and includes the commonly understood meaning of both terms and means any retail sale of personal property conducted in or near a residence, under cover, partially under cover or completely outside of any residential building, in the open. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold. (Ord 449 §2 (part), 1998).

**5.02.020 Frequency – Hours.**

No person shall operate, conduct, manage or permit a yard/garage sale upon his premises or any other property under his control more often than three times during any twelve-month period and the sale shall not continue for a period of more than four consecutive days nor more than four days in any month and shall be conducted during daylight hours only. (Ord 449 §2 (part), 1998).

**5.02.030 Placards and advertising.**

No person shall place any cards, placards or signs regarding a yard sale on any property other than the property owned by the person conducting the sale without the consent of the other property owner. Such cards, placards or signs shall not be posted more than seventy-two hours before the sale and shall be removed within twenty-four hours after the close of the sale. (Ord. 449 §2 (part), 1998).

**5.02.040 Permit – Required.**

No less than ninety-six hours before the date of the commencement of the yard or garage sale, any person desiring to hold a yard/garage sale shall apply for a permit from the office of the city clerk, who shall notify the police department of such application. Within forty-eight hours of application, the police department shall notify the city clerk whether the sale may create a traffic hazard. Unless the police department notifies the clerk that the sale may create a traffic hazard, the city clerk shall promptly issue



**Chapter 5.24**

**LIQUOR REGULATIONS**

**Sections:**

5.24.010 State Statutes Adopted by Reference

**5.24.010 State Statutes Adopted by Reference.**

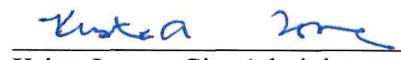
The city adopts by reference the provisions of Title 66 RCW relating to municipalities and in particular all provisions within Title 66 as relates to municipalities and in particular to the city and such municipal statutory provisions in said title pertaining to municipalities is adopted herein by reference. (Ord. 265, 1979).

**PASSED BY THE CITY COUNCIL OF THE CITY OF BINGEN**, and effective five (5) days after the first date of posting or publication.

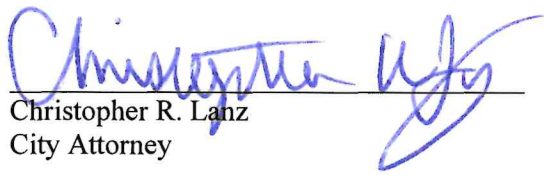
**DATED** this 2<sup>nd</sup> day of April, 2024.

ATTEST:

  
\_\_\_\_\_  
Mayor Catherine Kiewit

  
\_\_\_\_\_  
Krista Loney, City Administrator

Approved as to form only:

  
\_\_\_\_\_  
Christopher R. Lanz  
City Attorney

**BINGEN MUNICIPAL CODE**

**Title 5**

**BUSINESS TAXES, LICENSES AND REGULATIONS**

**Chapters:**

- 5.02 Yard and Garage Sales
- 5.04 Business and Occupation License
- 5.06 Mobile/Street Vendors
- 5.08 Natural Gas Utility Tax (repealed, see Chapter 5.10, Utility Taxes)
- 5.10 Utility Taxes
- 5.12 Cable Television Services Tax (repealed, see Chapter 5.10, Utility Taxes)
- 5.20 Public Dances, Public Dancing and Dance Halls (repealed)

the permit after said forty-eight hours if the application is otherwise in compliance with this chapter. The time periods specified herein do not include weekends or legal holidays. There shall be no fee for the permit and yard and garage sales and do not require a business license pursuant to Bingen Municipal Code Chapter 5.04. The permit shall be posted in public view at the site of the sale. No more than five families shall participate in any yard/garage sale. A bona-fide charitable organization shall be considered one family for the purpose of this chapter. (Ord. 449 §2 (part), 1998)

**5.020.050 Permit – Cancelled and rescheduled sale.**

In the event of inclement weather or other good reason and the sale for which a permit has been issued is not held on the dates or which the permit issued, the person wishing to conduct a sale may apply for a new permit upon the submission of an affidavit or declaration sworn under penalty of perjury to the City Hall attesting to the fact that the original sale date was canceled due to inclement weather or other good reason (Ord. 449 §2 (part), 1998).

**5.020.050 Permit – Cancelled and rescheduled sale.**

In the event of inclement weather or other good reason and the sale for which a permit has been issued is not held on the dates or which the permit issued, the person wishing to conduct a sale may utilize the existing permit by notifying the office of the city clerk of the change of date(Ord. 449 §2 (part), 1998; Ord 755 §2, 2024).

**5.02.060 Patio sales, rummage sale, etc.**

Included in the definition of yard/garage sales are all such sales also known as patio sales, rummage sales, and the like. (Ord. 449 §2 (part), 1998).

**5.02.70 Violation – Penalty.**

Any person found to be in violation of this chapter shall be guilty of a misdemeanor, each day the violation continues shall be considered a separate violation. (Ord. 449 §2 (part), 1998)

**BINGEN MUNICIPAL CODE**

**Chapter 5.04**

**BUSINESS LICENSES**

**Sections:**

- 5.04.010 Purpose.
- 5.04.020 Definitions.
- 5.04.030 Business license required.
- 5.04.040 Businesses located outside city limits.
- 5.04.050 Exemptions.
- 5.04.060 Application – Procedure.
- 5.04.070 Application – Form.
- 5.04.080 Renewal.
- 5.04.090 Fee – Late payment – Reissuance.
- 5.04.100 Term.

- 5.04.110 Change of ownership – Reapplication.
- 5.04.120 Issuance.
- 5.04.130 Posting required.
- 5.04.140 Transient merchants, peddlers, and solicitors.
- 5.04.150 Special events – Master license.
- 5.04.160 Prohibitions upon issuance.
- 5.04.170 Revocation or suspension – Grounds.
- 5.04.180 Appeal.
- 5.04.190 Violation – Penalty.

**5.04.010 Purpose.**

The purpose of this chapter is to regulate and insure the legal conduct of businesses, assist in the effective administration of health, fire, building, zoning and other codes of the city, to impose fees for revenue purposes, and to provide a means for obtaining public information and compiling statistical information on existing and new businesses in the city. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.020 Definitions.**

Except as otherwise expressly declared or clearly apparent from the context in which used, the following definitions shall be applied in construing the provisions of this chapter:

- A. “Business” means and includes all services and activities engaged in with the object of pecuniary gain, benefit or advantage to the person, or to another person or class, directly or indirectly, whether part time or full time. Any enterprise that meets the general definition of “business” shall be considered a separate and distinct business subject to the requirements of this chapter; provided, that a component or incident part of a separate business shall not itself be considered a separate business. For the purposes of this chapter, nonprofit organizations shall also be included under the term “business.” For purposes of this chapter, the owner of one or more business or residential rental units located within the city shall be considered to be engaged in a “business.”
- B. “Engaged in business” means every act within the city engaged in for the purpose of business including, but not limited to commencing, conducting or continuing in business or carrying on of any form of activity for gain, profit or advantage, whether direct or indirect. Businesses or people providing services to people or property within the city, operating from premises located within the city, soliciting business within the city, or using either a telephone number or business address within the city shall be presumed to be engaged in business within the city.
- C. “Peddler” means any person with no fixed place of business who goes from house to house, from place to place or from state to state, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers.
- D. “Person” means one or more natural persons of either sex, corporations, partnerships, associations or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.
- E. “Registered solicitor” means and includes any person or business who has obtained a valid license as provided in this chapter.

- G. “Solicitor” means any person who goes from house to house, from place to place, or from state to state, soliciting, taking or attempting to take orders for any goods, wares or merchandise, including books, periodicals, magazines or person property of any nature whatsoever, including any services for future delivery.
- H. “Special event” means any event or activity which is organized primarily for the purpose of promoting cultural, artistic or entertainment endeavors, including, but not limited to, arts and crafts fairs, cultural exhibitions, vocal or instrumental concerts, shows, festivals and camps, and is open to members of the public. Special events are not limited to those events conducted on public streets or in public buildings but may include events occurring entirely on private property.
- I. “Temporary business” means any business other than a solicitor, peddler or transient merchant that engages in business activity within the city for a period of not more than three consecutive days.
- J. “Transient merchant” means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the city, and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure or vacant lot, motor vehicle, or trailer. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.030 Business license required.**

It is unlawful for any person to conduct, operate, engage in or practice any business in the City of Bingen without first having obtained a business license from the city.

- A. If more than one business is conducting on a single premises, a separate license shall be required for each separate business conducted, operated, engaged in or practiced.
- B. If business is transacted at two or more places by a person within the city, a separate license shall be required for each place at which business is transacted.
- C. Different activities, occupations, trades, professions or pursuits (collectively, “undertakings”), although carried on at a single physical location, shall be deemed separate businesses, each requiring a separate business license. In determining whether separate business licenses shall be required for such undertakings in accordance with this subsection, the city may consider any relevant factors including without limitation:
  - 1. Whether the undertakings have differing names;
  - 2. Whether the undertakings have separate signage or other advertisement; and
  - 3. Whether the undertakings have different owners. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.040 Businesses located outside city limits.**

Unless otherwise exempt, this chapter covers and applies to any business located outside the city that engages in any business activity inside the city limits of the City of Bingen. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.050 Exemptions.**

A. The provisions of this chapter shall not apply to:

1. Delivery persons, and the delivery of goods by vehicle to a customer or client by a business where the sale occurred on a business premise outside of the city and the only event occurring within the city is delivery.
2. Any minor engaging in a de minimis entrepreneurial venture with permission of the property owner, including but not limited to such trade and activities as running a lemonade stand.
3. The United States or any instrumentality thereof and the state of Washington or any political subdivision thereof.
4. Any farmer, gardener or other person to sell, deliver or peddle any fruits, vegetables, berries, eggs or any farm produce or edibles raised, gathered, produced or manufactured by such person pursuant to RCW 36.71.090.
5. Yard and garage sales conducted on residential premises in compliance with Bingen Municipal Code 5.02.
6. Taxi, limousine, airporter, or other similar services where the business operates from premises located outside the city.
7. Sales of goods or services by mail, telephone, internet, or similar means where the seller operates from premises outside the city and the only event occurring within the city is receipt of such goods and services.
8. Provision of internet or wireless phone services where the provider operates from premises located outside the city and the only event occurring within the city is receipt of such services.
9. Persons engaged to act as agents, officials, or representatives of the city. (Ord. 692 §1, 2019).

B. The license fee portion of this chapter shall not apply to:

1. Nonprofit and not-for-profit activities and fundraising sales carried on by religious, charitable, educational, benevolent, fraternal or social organizations which are registered with the state of Washington Secretary of State as a nonprofit corporation.
2. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of business within the city. (Ord. 692 §1, 2019)

C. In addition to the other exemptions set forth in this section, the requirements of this chapter shall not apply to any activity or person to the extent that such application (1) would be clearly preempted by state or federal law, or (2) would violate the state or federal constitutional rights of a person.

D. Any person claiming an exemption from the requirements of this chapter shall bear the burden of demonstrating the person's entitlement to such exemption by providing appropriate documentation and/or legal authority to the city. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

- E. Exemption under this Section does not apply to regulatory license requirements or activities that require a specialized permit. (Ord. 692 §1, 2019)

**5.04.060 Application – Procedure.**

- A. No new business license shall be issued except upon written application made to the mayor or designee. Such application shall be signed by the person who intends to conduct, operate or engage in the business for which the license is to be issued, and shall state the nature and address of the business or proposed business of the applicant and such other information as may be required by the mayor or designee.
- B. If the applicant is a partnership, the application must be made and signed by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, partnership, or nonresidential individual, by the resident agent or local manager of the corporation, partnership or individual.
- C. The mayor or designee shall approve or deny the license. The appropriate official shall indicate on the license application whether the proposed business meets all current zoning and building code requirements. If any city department recommends denial of the license, that department must submit its recommendation in writing to the mayor or designee. If an application is denied by the mayor or designee, the reason for denial shall be stated.
- D. Neither the filing of an application for a license nor the payment of the fee shall authorize a person to engage in or conduct a business until such license has been granted. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.070 Application – Form.**

The business license application shall contain the provision that additional permits may be necessary before the owner can commence business. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.080 Renewal.**

- A. Annual licenses to be issued pursuant to the provisions of this chapter shall be renewed by January 31st of each subsequent year.
- B. Neither the filing of an application for renewal nor the payment of a renewal fee shall, of itself, authorize a person to engage in or conduct a business.
- C. The mayor or designee shall send out renewal notices each year. If the information regarding the business has not changed from the original application or a later update, the renewal notice shall be returned to the mayor or designee with the renewal fee as set forth in Section 5.04.060(A). If any information regarding the business has changed, such change(s) shall be submitted with the renewal notice and renewal fee. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.090 Fee – Late Payment – Reissuance.**

- A. The fee for the original license required by this chapter shall be forty dollars (\$40.00). The fee for annual renewal of the license shall be forty dollars (\$40.00).
1. Any person or business meeting the exemption requirements of Section 5.04.050(B) shall submit an application for a business license to the City Clerk or his designee but shall not be charged a fee for the original business license.
  2. Any person or business meeting the exemption requirements of Section 5.04.050(B) shall not be charged a fee for the annual renewal of a business license, provided that the person or business continues to meet the requirements for exemption.
  3. Any person or business issued a business license under the exemption of Section 5.04.050(B)(2) and at any time during that year exceeding the threshold for exemption under that Section, no longer qualifies as exempt and shall be charged a fee of forty dollars (\$40.00) for that year. (Ord. 692 §1, 2019)
- B. All businesses required to obtain annual licenses under this chapter shall obtain the same and pay all fees required on or before January 31st of each respective year. Any business who fails to obtain and pay the license fees prior to February 1st shall, in addition to any other penalties provided in this chapter, be assessed a sum of ten dollars (\$10.00) per month such late application and/or payment is overdue until paid.
- C. Any business relocating to another address in the city shall pay no fee to have a new business license reissued to reflect the new address. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.100 Term.**

All ~~annual~~ business licenses issued pursuant to the provisions of this chapter shall be valid for one year from the date of issue, on a rolling basis, and renewals shall be for a period of one year commencing from the renewal date.

~~until December 31st of the year for which they are issued, and all renewals therefore shall be for a period of one year commencing January 1st of the year for which the license issued and terminating and expiring December 31st of that year. (Ord. 189 §13, 1970; Ord. 669 §2, 2016; Ord. 692 §1, 2019).~~

**5.04.110 Change of ownership – Reapplication.**

Upon the sale or transfer of any business licensed pursuant to this chapter, the license issued to the prior owner or transferor shall automatically expire on the date of such sale or transfer and the new owner intending to continue such business in the City of Bingen shall apply for an obtain a new business license pursuant to the procedures established by this chapter prior to engaging in, conducting or operating the business. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.120 Issuance.**

Each license shall be numbered and shall show the name and place of business of the licensee and shall provide for only such information as deemed necessary to administer the provisions of this chapter. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.130 Posting required.**

Each person required to obtain a business license under this chapter shall at all times post such business license in a conspicuous place at the place of business for which it is issued. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.140 Transient merchants, peddlers and solicitors.**

- A. License required. It is unlawful and a nuisance for any person to engage in commercial or business solicitation and/or canvassing, calling at residences without the previous consent of the occupant for purposes of soliciting orders, sales, subscriptions or business commercial information without first obtaining a business license with the city. The applicant shall provide a written signed application stating:
  - 1. The name, address, telephone number, e-mail address and contact person for the principal applicant;
  - 2. The nature of the products or services involved, the names of the manufacturers, if any;
  - 3. The proposed method of operation in the city;
  - 4. List of persons who will solicit or canvass in the city, including each person's name, address, telephone number, and e-mail address; a general description of each person; and
  - 5. Any other information required by the city.
- B. Identification. Each peddler, solicitor, or transient merchant shall not conduct business within the city limits without possessing a valid copy of their business license at all times.
- C. Hours of Operation. Peddlers, solicitors, or transient merchants shall not operate within the city limits between the hours of 8:00 p.m. and 8:00 a.m. unless engaged in a prearranged appointment with an intended customer.
- D. No Soliciting Signs Compliance. No peddler, solicitor or transient merchant shall contact any residence that is posted by signage that such contacts are not desired by the residents.
- E. Use of Streets, Parks or Rights-of-Way. No peddler, solicitor or transient merchant shall have any exclusive right to any location in the public streets, parks or public rights-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations may impede or inconvenience the public. For the purpose of this section, the judgment of any officer of the Bingen-White Salmon Police Department, Klickitat County Sheriff's Office, and/or Washington State Patrol, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.
- F. Exemption. Charitable, religious, nonprofit organizations, any political campaign on behalf (or in opposition to) any candidate for public office or other similar civic, charitable, or nonprofit organizations shall be exempt from all provisions of this section except the section pertaining to compliance with "No soliciting" signage. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.150 Special event – Master license.**



- A. A master license shall be required for all special events held within the city limits of Bingen which must utilize multiple dealers or vendors. Requirements of the special event master license are as follows:
1. The promoter, sponsor or other person, firm, company, corporation or legal entity of whatsoever nature or kind organizing, managing, operating or conducting any convention, show or sale, circus, parade, carnival games/rides, street fairs, sidewalk sales or other promotional activity or special event within the city shall obtain a special event master license to cover all dealers/vendors involved in the activity/special event.
  2. Dealers/vendors participating in a convention, show, sale or other promotional activity or special event shall be covered under the special vent master license and shall not be required to have separate licenses for the event.
  3. The city reserves the right to charge any sponsor of a special event direct costs incurred by the city as a result of the event. Such costs may include, but are not limited to, the cost of barricading streets, police officers to direct or block pedestrian or vehicular traffic, plan reviews, or other public safety involvement such as standby aid cars, fire protection services or cleanup.
  4. The sponsor of the special event shall provide the mayor or designee with a list of all participating dealers/vendors at least ten days prior to the event. The list shall include the vendor's name, business name (if appropriate), mailing address, telephone number and state sales tax number. A map or layout of booths and booth numbers and the business in that booth shall also be provided, if appropriate. Only those dealers/vendors listed on the application or its amendments are approved under the special event master license.
  5. No license shall be issued to any person, firm, company or corporation to run, operate, conduct or manage any show, exhibition, game or other special event within the city which is in violation of any provision of the Bingen Municipal Code, Klickitat County Code and/or Revised Code of Washington.
  6. Any person, firm, company or corporation receiving a special event master license pursuant to this chapter shall be required to provide a certificate of insurance with a minimum liability coverage of five hundred thousand dollars (\$500,000) combined single limit bodily injury and property damage, including products liability if food and/or beverage vending is part of the special event or public activity. Greater or lesser coverage may be required based upon an objective assessment of risk to the public health, safety and welfare of the special event. The certificate of insurance shall name the city as an additional insured if the license is for a special event held on city property or utilizing city employees.
  7. The following special events shall be exempt from the requirements to obtain a special event master license under this chapter:
    - a. dances or other social events conducted by schools or churches;
    - b. temporary sales conducted by businesses, such as holiday sales, grand opening/closing business sales or anniversary sales;

- c. one-day bazaars or arts and craft shows sponsored by churches, lodges or other nonprofit social groups;
- d. yard sales and garage sales as regulated under Bingen Municipal Code 5.02;
- e. organized amateur sporting events such as little league baseball, amateur soccer, and day camps using the city's park;
- f. charitable, religious or nonprofit organizations on premises under their control; and
- h. other similar events and activities which do not directly affect or use city services.

B. All applications for a special event master license shall be accompanied by a nonrefundable application fee of twenty-five dollars (\$25.00); provided, that the application fee may be waived if, in the opinion of the mayor or designee, the imposition of such fee will create an undue hardship for the applicant. (Ord. 189 §13, 1970; Ord. 669 §2, 2016; Ord. 692 §1, 2019).

**5.04.160 Prohibitions upon issuance.**

Notwithstanding any other provisions of this chapter, a license hereunder may not be issued to or held by 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 provision of the Bingen Municipal Code, Klickitat County Code, Revised Code of Washington or any other applicable law or regulation. The granting of a business license shall not authorize any person to engage in any activity prohibited by federal, state or local law or regulation. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.170 Revocation or suspension – Grounds.**

The mayor or designee may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any officer, employee or partner thereof:

- A. Has violated any city, county, state and/or law, statute and/or regulation upon the business premises stated in the license or in connection with the business stated in the license, whether or not the licensee, or officer or partner thereof, has been convicted in any court of competent jurisdiction of such violation;
- B. Is or has conducted, engaged in or operated the business state in the license upon the premises, which do not conform to the Bingen Municipal Code;
- C. Has maintained or permitted the business state in the license to be conducted, engaged in or operated in such a manner as to constitute a public nuisance; or
- D. Has made any material false statement or representation in connection with obtaining the license. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.04.180 Appeal.**

- A. Whenever the mayor or designee determines that there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the mayor or designee shall notify the person holding the license by registered or certified mail, return receipt requested, of the determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the grounds for suspension, denial or revocation.
- B. The licensee or applicant may appeal the decision of mayor or designee to deny, suspend or revoke a business license by filing a written notice of appeal to the city council within ten (10) calendar days of the mayor or designee's decision.
- C. Upon timely receipt of the notice of appeal, the mayor or designee shall set a date for hearing the appeal. The mayor or designee shall mail notice of the date of the hearing to the licensee at least twenty (20) calendar days prior to the hearing date.
- D. The appeals hearing shall be de novo, as the city council may affirm, reverse, or modify the mayor or designee's decision.
- E. The decision of the city council shall be final. Any person desiring to appeal must file an appropriate action in Klickitat County Superior Court within fourteen (14) calendar days of the city council's decision.
- F. Following revocation, no business license shall be issued for a period of twelve (12) months to the person or business entity whose license was revoked, or to any business entity owned or controlled by such person or entity. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**5.01.190 Violation – Penalty.**

- A. Any person, as defined in this chapter, and the officers, directors, managing agents, or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any of the provisions of this chapter shall have committed a civil infraction and, upon a determination by the judge of West Klickitat County District Court that such infraction has been committed, shall pay a civil monetary penalty to the city of a sum not to exceed two hundred dollars (\$200.00). In addition, each and every day during any portion of which a violation of any provision of this chapter is committed, continued or permitted constitutes a separate infraction. Penalties collected pursuant to this section shall be deposited in the city's general fund to be used for general purposes of the city.
- B. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a public nuisance and all remedies give by law for the prevision and abatement of nuisances shall apply thereto.
- C. Any person deemed to have committed a civil infraction under subsection A of this section who shall fail to come into compliance, or remain in compliance, with the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a term not exceeding ninety (90) days in jail or by a fine in an amount not more than one thousand dollars (\$1,000.00) or by both such jail and fine. Each day that such condition or violation continues shall be regarded as a new and separate offense and shall be punishable accordingly. (Ord. 189 §13, 1970; Ord. 669 §2, 2016).

**Chapter 5.06**

## **MOBILE/STREET VENDORS**

### **Sections:**

- 5.06.010 Purpose.
- 5.06.020 Definitions.
- 5.06.030 Applicability.
- 5.06.040 Exemptions.
- 5.06.050 Display of license.
- 5.06.060 Geographical restrictions.
- 5.06.070 Number of mobile/street vendor licenses to be issued per year.
- 5.06.080 Operating conditions.
- 5.06.090 Health and safety standards.
- 5.06.100 Application.
- 5.06.110 License fee.
- 5.06.120 License renewals.
- 5.06.130 License revocation.
- 5.06.140 Infraction – Penalty.

### **5.06.010 Purpose.**

The purpose of this chapter is to:

- A. Encourage small business by providing opportunities that do not require a permanent structure; and
- B. Promote public safety and ensure the orderly and unhindered movement of pedestrians and vehicles. (Ord. 635 §1, 2014).

### **5.06.020 Definitions.**

- A. “Vending unit” means a movable cart, kiosk, tent, trailer, vehicle or other structure from which business is conducted. The maximum permissible size for any vending unit shall be 144 square feet, including storage, furniture, seating, and other appurtenances. The vending unit within a licensed motor vehicle shall exclude non-business related areas such as a driving compartment.
- B. “Street vendor” means a person, firm or corporation who engages in a business of selling goods of any kind or description and who commonly conducts such business from a vending unit. A person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with a storefront business or by conducting such temporary business in connection with, as part of, or in the name of the storefront business. (Ord. 635 §1, 2014).

### **5.06.030 Applicability.**

- A. It shall be unlawful for any person to act as a mobile/street vendor within the meaning and application of this chapter unless that person or his/her employer shall have first secured a vending license in the manner provided in this chapter.
- B. Such license shall be carried at all times when vending in the City of Bingen, and shall be exhibited by any such mobile/street vendor whenever requested to do so by any police officer.

- C. All persons acting as mobile/street vendors shall comply with all federal, state, and local laws, ordinances and regulations, including all health requirements.
- D. This chapter does not apply to mobile/street vendors who are located on private property and have obtained the appropriate city business license. (Ord. 635 §1, 2014).

**5.06.040 Exemptions.**

The following persons shall be exempt from license applications and fees but are still subject to federal, state and county health regulations:

- A. Any farmer, gardener or other person who sells any fruits, vegetables or other farm produce or edibles produced by such person and exempt pursuant to RCW 36.71.090.
- B. Exempt persons are exempt only from city business licensing requirements and must comply with all other provisions of law, ordinance and regulations and all applicable federal, state and county health regulations.
- C. The city may, at its sole discretion, incorporate vendor licenses or conditions of approval within special event permits to address street vendors at special events. (Ord. 635 §1, 2014).

**5.06.050 Display of license.**

All licenses for mobile/street vendors shall be prominently displayed upon all vending units from which a mobile/street vendor conducts business. (Ord. 635 §1, 2014).

**5.06.060 Geographical restrictions.**

No mobile/street vendor license shall include the privilege to conduct the business of a mobile vendor unless the vehicle or conveyance is parked and operated in full compliance with the traffic and sidewalk ordinances of the city as now in effect or as hereafter amended. It is a violation of this chapter for any person selling or offering for sale any article to obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where any article is being sold or offered for sale. No merchandise will be offered, displayed, or sold, and no customers served, in any vehicle travel lane. Mobile/street vendors will be allowed in the following locations on an application based on first come/first served:

- A. The south side of the 400 block of W. Humboldt from west of 403 W. Humboldt to Willow Street.
- B. 400 W. Steuben (city owned property) – not to be located on the street.
- C. Mobile vendors (not remaining stationary for more than 30 minutes) are allowed to park/pass through all of the city streets with the exception of Steuben and Oak. (Ord. 635 §1, 2014).

**5.06.070 Number of mobile/street vendor licenses to be issued per year.**

- A. The number of stationary street vendor licenses to be issued per year shall be limited to four (4).

- B. The number of mobile vendors (not remaining stationary for more than 30 minutes) shall be limited to two (2).
- C. The license application period opens January 1 of each year and once the full number of licenses has been issued the application period will be closed. (Ord. 635 §1, 2014).

**5.06.080 Operating conditions.**

Any person with a valid mobile/street vendor license issued pursuant to this chapter shall be subject to the following conditions:

- A. All mobile/street vendors shall display, in a prominent and visible manner, the license issued by the city under the provisions of this chapter.
- B. Mobile/street vendors are limited to selling food and beverage items must be capable of immediate consumption. No other merchandise is authorized to be sold through mobile/street vendors.
- C. The vending site shall be clean and orderly at all times and the vendor shall provide a refuse container for use by patrons. Mobile/street vendors are responsible for disposing all refuse in an appropriate manner. Refuse collected by the mobile/street vendor is not to be disposed of in any city street garbage cans or garbage cans located within the city park.
- D. Soliciting or conducting business with persons in motor vehicles is prohibited (i.e. service must be provided to walk-up patrons, no drive through service is allowed).
- E. No food or beverages shall be displayed using street furniture (planters, street lights, trees, trash containers, etc.) or placed upon a sidewalk. No use of any automatic coin-operated vending dispense is allowed.
- F. Vendors shall obey any lawful order from a police officer or Fire Department official during an emergency or to avoid congestion or obstruction of a sidewalk.
- G. Utility service connections are not allowed.
- H. Signs or banners may be attached to the vending unit for the purpose of advertising or identifying the vending unit. Streamers, balloons, etc. are not allowed. No off-site advertising is allowed.
- I. The footprint of the mobile/street vending site is subject to the area constraints of the vending site location provided in the application but in no event shall a vending site footprint exceed two hundred (200) square feet.
- J. Mobile/street vending units must be removed from the location at the end of the day or selling period.
- K. Tables and chairs are not allowed at the mobile/street vending site.
- L. Mobile/street vendors are allowed to operate from 8:00 a.m. to 8:00 p.m. (Ord. 635 §1, 2014).

**5.06.090 Health and safety standards.**

- A. All mobile/street vendors shall comply with all laws, rules and regulations regarding food handling, and all vehicles, equipment, devices or structures used for the preparation, handling, storage, transportation and/or sale of food shall comply with WAC 246-215-050, as presently worded and as may be amended by law, in addition to any other rules and regulations respecting such vehicles, equipment, devices, or structures as established by the Klickitat County Health Department and as set forth in the Bingen Municipal Code.
- B. Copy of any permits issued by the Klickitat County Health Department shall be provided to the city.
- C. A fire extinguisher is required for all mobile/street vendors using open-flame cooking or cooking products producing grease-laden vapors. (Ord. 635 §1, 2014).

**5.06.100 Application.**

The permit application shall contain the following:

- A. Name and address of the mobile/street vendor including phone number and e-mail address.
- B. Accurate drawing the proposed public area to be used along with plans detailing the design and size of the mobile/street vending unit.
- C. City of Bingen Business License.
- D. Washington State Unified Business Identification number.
- E. Klickitat County Health Department permit(s) if required by the Health Department.
- F. A certificate of insurance naming the city as an additional insured. The minimum liability coverage must be five hundred thousand dollars (\$500,000) combined single-limit bodily injury and property damage, including products liability if food vending. A certificate of insurance shall be provided to the city for review prior to the issuance of a license. (Ord. 635 §1, 2014).

**5.06.110 License fee.**

- A. The license fee for a stationary mobile/street vendor that will remain stationary during the day is \$240.00 per year.
- B. The license fee for a mobile/street vendor remaining stationary for no longer than 30 minutes at a time shall be \$100.00 per year. (Ord. 635 §1, 2014).

**5.06.120 License renewals.**

All licenses issued under this chapter are for a calendar year and will expire on December 31. A new application is required each year due to the limitation of licenses and licenses being issued on a first come first served basis. (Ord. 635 §1, 2014).

**5.06.130 License revocation.**

- A. A mobile/street vendor license is wholly of a temporary nature and vests no permanent rights or interest in property. The license of a mobile/street vendor shall, after notice in writing and an opportunity to be heard by the city mayor or the city administrator, be revoked, and such mobile/street vendor shall not be entitled to a subsequent license to engage in business as a mobile/street vendor for one year after such revocation, for any of the following reasons:
1. Fraud or misrepresentation contained in the application for license;
  2. Fraud or misrepresentation, or false or misleading statements, made in the course of conducting the licensed business;
  3. Conviction of any crime involving moral turpitude in which a minor child was the victim or was otherwise involved;
  4. The conduct of business in areas prohibited by this chapter, or
  5. Any other violation of this chapter.
- B. The decision of the city mayor or city administrator shall be final subject only to the right of license holder to appeal said decision to the Klickitat County Superior Court within fifteen days of the rendered by the city mayor or city administrator. (Ord. 635 §1, 2014).

**5.06.140      Infraction – Penalty.**

In addition to establishing grounds for revocation of a license, the failure to perform any act required by this chapter, or the performance of any act prohibited by this chapter, is designated as an infraction and may not be classified as a criminal offense. A person found to have committed an infraction under this chapter shall be assessed a monetary penalty. Each day in which a violation of this chapter continues shall be contacted as a separate infraction. Chapter 7.80 RCW is incorporated herein with respect to this section. No penalty assessed for infractions under this chapter may exceed two hundred fifty dollars for each separate infraction. (Ord. 635 §1, 2014).

**Chapter 5.10**

**UTILITY TAXES**

**Sections:**

- 5.10.010      Purpose.
- 5.10.020      Definitions.
- 5.10.030      Businesses subject to tax.
- 5.10.040      Exceptions and deductions from gross income.
- 5.10.050      Monthly returns and payment.
- 5.10.060      Allocation of income for cellular telephone service.
- 5.10.070      Books and records – Inspection and confidentiality.
- 5.10.080      Investigation of returns.
- 5.10.090      Overpayment or under payment.
- 5.10.100      Failure to make return.
- 5.10.110      Appeal to city council.
- 5.10.120      Unlawful acts.
- 5.10.130      Penalty for violation.



5.10.140 Rate change.

**5.10.010 Purpose.**

The provisions of this chapter shall be deemed to be an exercise of the power of the City of Bingen to license for revenue, as authorized by RCW 35.21.865 and 35A.82.020, each as now or hereafter amended, and other applicable state law. (Ord. 593 § 2, 2011).

**5.10.020 Definitions.**

Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from context, a more limited or different meaning is clearly defined or apparent. To the extent any term above is inconsistent and preempted by state statute or federal code, the statute or code, as the case may be, most similar to the definition above shall be the definition for that term.

- A. “Administrator” shall mean the city administrator.
- B. “Cable television service” means the one-way transmission to subscribers of video programming and other programming service and subscriber interactions, if any, that is required for the selection or use of the video programming or other programming service.
- C. “Cellular telephone service” means a one- or two-way telecommunications system used to transmit voice and/or data-based signals or content 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, pager services, specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplished a purpose similar to cellular mobile service, including paging. Cellular telephone service shall not include competitive telephone service. (Competitive telephone service” means 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 RCW Title 80 and for which a separate charge is made.)
- D. “Electricity” means the sale of electrical power.
- E. “Gas distribution business” means the business of selling, furnishing, or transmitting gas, whether manufactured or natural (but not including gasoline sales).
- F. “Gross income” means 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 the investment of capital of the business engaged in, including rentals, royalties, fees or other emoluments, receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages or other evidences of indebtedness or stock and the like and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, taxes, or any expense whatsoever, and without any deduction on account of losses.

- G. “Person” or “persons” means natural persons of either gender, firms, co-partnerships, corporations, municipal corporations, and other associations of natural persons whether acting by themselves or by servants, agents or employees.
- H. “Pager service” means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, via satellite or any other form of voice or data transmission.
- I. “Sewerage operation” means operation of sanitary sewer facilities, including collection, treatment and disposal facilities, and combined sanitary and surface water drains and outfalls.
- J. “Solid waste service” means the collection and disposal of putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.
- K. “Water distribution operation” means the business of operating a plant or system for the distribution of water for hire or sale (but does not include any entity distributing water to the City of Bingen for the City to distribute).
- L. “Taxpayer” means any person liable for the license fee or taxes imposed by this chapter.
- M. “Tax year” or “taxable year” means the 12-month period commencing January 1<sup>st</sup> and ending December 31<sup>st</sup> of the same year. (Ord. 593 § 2, 2011).

**5.10.030 Businesses subject to tax.**

To the extent the tax is consistent with federal and state law and with any relevant franchise agreement:

There is hereby levied upon all persons engaged in business activities taxable under this chapter a tax in the amounts to be determined by the application of the respective rates against gross income of such taxpayer derived from the operation of that business. Taxpayers engaged in or carrying on the business shall be charged with collection of the tax as a condition of doing business, and the tax shall be levied thereafter upon their subscribers at the rate set forth below.

- A. Commencing on February 1, 2012, upon every person engaged in or carrying on a telephone business, as defined in RCW 82.04.065, as said statute presently exists or is hereafter amended, a tax equal to six percent of the total gross income, including revenues for intrastate toll, derived from the operation of such business within the city. To the extent permitted by applicable federal and Washington State law, any telecommunications services provided by a cable operator (as defined in 47 U.S.C. Section 522(5) as now or hereafter amended) or other persons over cable television facilities owned or controlled by a cable operator shall be taxable hereunder.
- B. Commencing on February 1, 2012, upon every person engaged in or carrying on the sale of cellular telephone service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- C. Commencing on February 1, 2012, upon every person engaged in the business of operating or providing pager service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.

- D. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of cable television service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- E. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of solid waste collection, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- F. Commencing on February 1, 2012, upon every person engaged in or carrying on the business of electricity service, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- G. Commencing on February 1, 2102, upon every person engaged in or carrying on the business of gas distribution, a tax equal to six percent of the total gross income derived from the operation of such business within the city.
- H. Commencing on January 1, 2012, upon every person engaged in or carrying on the business of sewerage operation (which includes surface water drains and outfalls), a tax equal to ten percent of the total gross income derived from the operation of such business within the city.
- I. Commencing on January 1, 2012, upon every person engaged in or carrying on the business of water distribution operation, a tax equal to six percent of the total gross income derived from the operation of such business within the city. (Ord. 593 § 2, 2011).

**5.010.040 Exceptions and deductions from gross income.**

There shall be excluded from the total gross income upon which the utility tax is computed the following:

- A. Revenues derived from transactions in interstate or foreign commerce, or from business done for the United States and the state of Washington, or their officers or agents or any amounts paid by the taxpayer to the United States and the state, the city or to any political subdivision of the state, as excise taxes levied or imposed upon the sale or distribution of property or services, or as a utility tax.
- B. That portion of gross income derived from charges to another telecommunications company, as defined in RCW 82.04.065 as now or hereafter amended, or connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate service.
- C. Charges incurred by a taxpayer engaging in a telephone business and paid to a telecommunications company, as defined in RCW 82.04.065 as now or hereafter amended for telephone service that the taxpayer purchases for the purpose of resale.
- D. Adjustments made to a billing or to a customer account or a telecommunications company accrual account in order to reverse a billing or a charge that has been made as a result of third party fraud or other crime and was not properly a debt of a customer.
- E. Cash discounts and credit losses actually sustained by a taxpayer on an accrual basis. (Ord. 593 § 2, 2011).

**5.10.050 Quarterly returns and payment.**

- A. The utility tax shall be due and payable at the end of each quarter . The date the tax is remitted to the city is defined as the last day of the month following the end of the quarter. The quarter time period and date the tax is remitted to the city shall be as follows:

Quarter Time Period	Date Tax Remitted
January 1 <sup>st</sup> through March 31 <sup>st</sup>	April 30 <sup>th</sup>
April 1 <sup>st</sup> through June 30 <sup>th</sup>	July 31 <sup>st</sup>
July 1 <sup>st</sup> through September 30 <sup>th</sup>	October 31 <sup>st</sup>
October 1 <sup>st</sup> through December 31 <sup>st</sup>	January 31 <sup>st</sup>

- Payment shall be accompanied by a quarterly statement showing the manner in which the quarterly payment is calculated. The quarterly statement shall be upon a form provided by the administrator and shall contain such information as may be necessary to enable the administrator to arrive at the lawful amount of the tax. The taxpayer shall, in a legible manner, provide all information required by the administrator on such returns, shall sign the same, and by affidavit shall swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.
- B. Quarterly returns shall be accompanied by a remittance by bank draft, certified check, cashier’s check or money order, payable to the City of Bingen, or in cash, in the amount of the fee or tax owed, including delinquencies and installments.
  - C. Payment made by draft or check shall not be deemed a payment of the fee or tax unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as an acquittance or discharge of the fee or tax unless and until the check or draft is honored.
  - D. If the applicant is a partnership, returns must be made by one of the partners or designee, if a corporation, by one of the officers or designee thereof; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager or designee of said corporation, copartnership or individual. (Ord. 593 § 2, 2011; Ord. 598 § 1, 2012).

**5.10.060 Allocation of income for cellular telephone service.**

- A. Service Address. Payments by a customer for the telephone service from telephones without a fixed location (e.g., cellular telephone service) 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 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 the local of the main cellular switching office that switched the call.

- D. Dispute Resolution. If there is a dispute among one or more other cities, and/or the taxpayer, as to the service address of a customer who is receiving cellular telephone services, and the dispute is not resolved by negotiation among the parties, then the dispute shall be submitted to mediation by a mediator acceptable to the parties involved or a majority of them. In the event mediation is not successful or cannot be effected, the dispute shall be resolved by suit in the Superior Court of Klickitat County or in that jurisdiction required by federal or state law governing. The taxpayer shall have no further liability with respect to additional taxes on the disputed revenues, but will charge his or her billing records for future revenues to comport with the resolution of the dispute.
- E. Authority of Administrator. The administrator is authorized to represent the city in negotiations with other cities for the proper allocation of cellular telephone service taxes imposed pursuant to this chapter. (Ord. 593 § 2, 2011).

**5.10.070 Books and records – Inspections and confidentiality.**

- A. It is the duty of each taxpayer to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of its gross income, which account shall be open to inspection by the administrator, or his or her designee at a reasonable time, and from which said officer the administrator or his or her designee may verify returns made by the taxpayer.
- B. To the extent permitted by Chapter 42.17 RCW and other applicable statutes, the applications, statements or return made to the administrator pursuant to this chapter shall not be made public, nor shall they be subject to the inspection of any person except the mayor, the city attorney, the administrator, or his or her authorized agent and members of the city council. (Ord. 593 § 2, 2011).

**5.10.080 Investigation of returns.**

If any taxpayer fails to apply for a license or make his or her return, or if the administrator is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, the administrator, or his or her designee, may: (A) enter the premises of such taxpayer at any reasonable time for the purpose of inspecting and auditing the taxpayer’s books or records to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be; (B) may examine any person under oath administered by the administrator, or his or her designee, touching the matters inquired into; or (c) fix a time and place for an investigation of the correctness of the return, and issue a subpoena to the taxpayer, or any other person, to attend such investigation and testify, under oath administered by the administrator, or his or her agent, in regard to the matters inquired into and may, by subpoena, require him or her, or any person, to bring with him or her such books, records and papers as may be necessary. In the event that any such audit reveals an underpayment of 10 percent or more, the taxpayer shall, in addition to the penalties provided by this chapter, be responsible for all of the costs associated with the audit, including, but not limited to, staff time and overhead, accounting fees, professional service fees, and attorneys fees. (Ord. 593 § 2, 2011).

**5.10.090 Overpayment or underpayment.**

- A. Overpayment. If the administrator, upon investigation or upon checking returns, finds that the fee or tax paid by a taxpayer is more than the amount required of the taxpayer, he or she shall return the amount overpaid, upon the written request of the taxpayer. Any refund request not submitted within three years of the alleged overpayment shall be forever barred.

- B. Underpayment. If the administrator finds that the fee or tax paid by a taxpayer is less than required, he or she shall send a statement to the taxpayer showing the balance due, together with a penalty of 10 percent of the amount due, and the taxpayer shall, within 10 days, pay the amount shown thereon. If payment is not received by the administrator by the due date specified in the notice, the administrator shall add a penalty of an additional 25 percent of the amount of the additional tax found due. In the event that the balance due, including all penalties, is not paid in full within 30 days from the date specified, the penalty shall be increased by 15 percent of the amount due and the total amount due shall accrue interest at the rate of 12 percent per annum. If the administrator finds that all, or any part of, the deficiency resulted from an intent to evade the tax payable hereunder, a penalty of 50 percent of the additional tax found to be due shall be added and the amounts due, including penalties, shall accrue interest at the rate of 12 percent per annum from the date the tax became due and the date payment is actually made. (Ord. 593 § 2, 2011).

**5.10.100 Failure to make return.**

If any taxpayer fails to make a return or pay the fees or taxes therefor, or any part thereof, the administrator shall ascertain the amount of the fee or tax or installment thereof due and shall notify the taxpayer thereof, who shall be liable therefor in any suit or action by the city for the collection thereof. In the event that any taxes imposed by this chapter remain unpaid, the administrator may defer such claims to a collection agency or to the city attorney for collection. If referred to the city attorney for collection, the city attorney shall, with the assistance of the administrator, collect the same by an appropriate means or by suit or action in the name of the city. In the event that the city prevails on any claim that a taxpayer is in noncompliance with the terms of this chapter, the city shall be entitled to an award of its reasonable attorneys' fees and other professional expenses associated with prosecuting the action. (Ord. 593 § 2, 2011).

**5.10.110 Appeal to city council.**

- A. Any taxpayer aggrieved by the amount of the fee, tax, or penalty found by the administrator to be required under the provisions of this chapter, may appeal to the city council from such finding by filing a written notice of appeal with the administrator within five days from the time such taxpayer was given notice of such amount and paying an appeal fee in accordance with the city's current fee schedule as may be amended from time to time. The city clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not more than 30 days after the filing of the notice of appeal, and the city clerk shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing the taxpayer shall be entitled to be heard and to introduce evidence on his or her behalf. The city council shall thereupon ascertain the correct amount of the fee, tax, or penalty by resolution and the administrator immediately notify the appellant thereof, which amount, together with costs of the appeal including outside legal, accounting, and other expenses, if the appellant is unsuccessful therein, must be paid within 10 days after such notice is given.
- B. The city council may direct that the appeal hearing provided by subsection (A) of this section be conducted by a hearing officer appointed by the city for that purpose. In such case, the hearing officer shall conduct an evidentiary hearing as provided in subsection (a) of this section and forward findings, conclusions, and a recommendation to the city council for final action. Unless otherwise agreed to by the parties, the hearing office shall convene the hearing within 30 days of the matter being referred by the city council and shall enter his or her written findings, conclusions, and recommendation within 15 days following conclusion of the hearing. Upon

receipt of the hearing officer's finding, conclusions and recommendation, the city council shall either adopt the same as their own decision, conduct their own hearing and adopt new findings and conclusions, or remand the matter to the hearing officer for further review.

- C. Any judicial appeal of the city council's final determination of such an appeal shall be filed and served within 21 days of the date of the city council's final vote on the matter, and the taxpayer shall be responsible for payment of the costs associated with producing the city's administrative record therein. (Ord. 593 § 2, 2011).

**5.41.120 Unlawful acts.**

It is unlawful: (A) for any person liable for taxes or fees hereunder to fail or refuse to file returns, or to pay any fee or tax or installment thereof when due; (B) for any person to make any false or fraudulent return or any false statement or representation in, or in connection with, any return; (C) to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof; (D) for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto; (E) to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal; or (F) in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 593 § 2, 2011).

**5.41.130 Penalty for violation.**

Any person violating any of the provisions or failing to comply with any of the requirements of this chapter shall, in addition to being liable for the monetary penalties set forth herein, be guilty of a misdemeanor and upon conviction of such violation or failure be punished by a fine of not more than \$5,000 or by imprisonment not to exceed 90 days or by both such fine and imprisonment. (Ord. 593 § 2, 2011).

**5.10.140 Rate change.**

No change in the rate of tax upon persons engaging in providing services taxable under this chapter shall apply to business activities occurring before the effective date of the change, and, except for a change in the tax rate authorized by RCW 35.21.865 as now or hereafter amended and pursuant to RCW 35A.82.020 as now or hereafter amended, no change in the rate of the tax may take effect sooner than 60 days following the enactment of the ordinance establishing the change. The administrator, or his or her designee, shall send to each taxpayer a copy of any ordinance changing the rate of tax upon taxable services promptly upon its enactment. (Ord. 593 § 2, 2011).

**Chapter 5.24**

**LIQUOR REGULATIONS**

**Sections:**

5.24.010 State Statutes Adopted by Reference

**5.24.010 State Statutes Adopted by Reference.**

The city adopts by reference the provisions of RCW 66.04.010 relating to municipalities and in particular all provisions within Title 66 as relates to municipalities and in particular to the city and such municipal

statutory provisions in said title pertaining to municipalities is adopted herein by reference. (Ord. 265, 1979).