Title 7

CONSUMER PROTECTION[1]

This title is intended for those provisions of the Code which protect the consumer from deceptive and fraudulent practices.

1. Cross-reference: For provisions regarding offenses against persons and property, see Title 12A Criminal Code of this Code; for provisions regarding condominium conversion, see Chapter 22.902.

Chapter 7.04

WEIGHTS AND MEASURES CODE

Sections:

Statutory Reference: For statutory provisions on weights and measures, see RCW Ch. 19.94.

Severability: If any provision of this code is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby.

(Ord. 98820 § 42, 1970.)

Subchapter I

General Provisions

7.04.005 Title--Citation.

This chapter shall be known and designated as the "Weights and Measures Code," may be cited as such, and is referred to herein as "this code."
(Ord. 98820 § 1, 1970.)

7.04.010 Definitions generally.

For the purpose of this code, the words set out in this subchapter shall have the following meanings.
(Ord. 98820 §§ 2(part), 3(part) and 4(part), 1970.)

7.04.015 Barrel.

"Barrel," when used in connection with fermented liquor, means a unit of thirty-one (31) gallons.
(Ord. 98820 § 4(part), 1970.)

7.04.020 City Sealer--Deputy Sealer.

"City Sealer" and "Deputy Sealer" mean, respectively, a Sealer of weights and measures and a Deputy Sealer of weights and measures of the City.
(Ord. 98820 § 2(4), 1970.)

7.04.025 Commodity in package form.

"Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this code. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or measure, shall be construed to be a commodity in package form.
(Ord. 98820 § 2(6), 1970.)

7.04.030 Consumer package--Package of consumer commodity.

"Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.
(Ord. 98820 § 2(7), 1970.)

7.04.035 Cord.

"Cord," when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of one hundred twenty-eight (128) cubic feet, when the wood is ranked and well stowed.
(Ord. 98820 § 4(part), 1970.)

7.04.038 Electronic price scanning system.

"Electronic price scanning system" means one (1) or more electronic computational devices that determine the price of a product using the Universal Product Codes (UPCs or "bar codes," e.g. price scanning devices), or Price Look-up (PLU) Codes.
(Ord. 122845, § 1, 2008; Ord. 120976 § 1, 2002.)

7.04.040 Fish.

"Fish" means any water-breathing animal, including shellfish, such as but not limited to, lobster, clam, crab or other mollusca which is prepared, processed, sold or intended or offered for sale.
(Ord. 98820 § 3(3), 1970.)

7.04.045 Intrastate commerce.

"Intrastate commerce" means any and all commerce or trade that is begun, carried on, and completed wholly within the limits of the State of Washington, and the phrase "introduced into intrastate commerce" defines the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.
(Ord. 98820 § 2(5), 1970.)

7.04.050 Meat.

"Meat" means and includes all animal flesh, carcasses, or parts of animals, and shall include fish, shellfish, game, poultry, and meat food products of every kind and character, whether fresh, frozen, cooked, cured, dried, pickled or processed.
(Ord. 98820 § 3(1), 1970.)

7.04.055 Nonconsumer package--Package of nonconsumer commodity.

"Nonconsumer package" or "package of nonconsumer commodity" means any commodity in a package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.
(Ord. 98820 § 2(8), 1970.)

7.04.060 Person.

"Person" means both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations, and every officer, agent or employee thereof.
(Ord. 98820 § 2(1), 1970.)

7.04.065 Poultry.

"Poultry" means all fowl, domestic or wild, which is prepared, processed, sold or intended or offered for sale.

(Ord. 98820 § 3(2), 1970.)

7.04.070 Sell--Sale.

"Sell" and "sale" include barter and exchange.
(Ord. 98820 § 2(3), 1970.)

7.04.075 Ton.

"Ton" means a unit of two thousand (2,000) pounds avoirdupois weight.
(Ord. 98820 § 4(part), 1970.)

7.04.080 Weight(s) and measure(s).

"Weight(s) and measure(s)" means the recognized standards or units of measure used to indicate the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable commodity.
(Ord. 117917 § 1, 1995: Ord. 98820 § 2(2), 1970.)

7.04.085 Weighing and measuring instrument or device.

"Weighing or measuring instrument or device" means any equipment or apparatus used commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or measurement of quantities, things, produce, or articles for distribution or consumption, that are purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count, including any accessory attached to or used in connection with a weighing or measuring instrument or device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy or indication of the device. This definition shall be strictly limited to those weighing or measuring instruments or devices governed by Handbook 44 as adopted under RCW 19.94.195. The term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), or water when the same are operated in a public utility system. Such electricity, gas, and water meters are specifically excluded from the purview of this code, and none of the provisions of this code shall be construed to apply to such meters or to any appliances or accessories associated therewith.
(Ord. 117917 § 2, 1995.)

Subchapter II

Official Standards

7.04.100 Systems adopted.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one (1) or both of these systems shall be used for all commercial purposes in the City. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the National Bureau of Standards, and recognized by the state, are recognized and shall govern weighing and measuring equipment and transactions in the City.
(Ord. 98820 § 5, 1970.)

7.04.105 City standards--Examination and approval.

Such weights and measures in conformity with the standards of the United States as have been obtained by the City for use as City standards, shall, when the same have been examined and approved by the Director of the Department of Agriculture of the state, be the official City standards of weight and measure. The City standards shall be kept in a safe and suitable place designated by the City Sealer except for repairs or for certification, and they shall be submitted at least once every five (5) years to the Director of the Department of Agriculture of the state for testing and approval. The official City standards shall be used only in verifying the office or field standards and for scientific purposes.
(Ord. 98820 § 6, 1970.)

7.04.110 Working standards and equipment.

In addition to the official City standards provided for in Section 7.04.105, there shall be supplied by the City such "field standards" and such equipment as may be found necessary to carry out the provisions of this code. The field standards shall be verified upon their initial receipt and at least once each year thereafter by direct comparison with the official City standards.
(Ord. 98820 § 7, 1970.)

Subchapter III

City Sealer

7.04.130 Director of Executive Administration designated as City Sealer.

There shall be a City Sealer of Weights and Measures, referred to in this Code as the City Sealer. The Director of Executive Administration ("Director") shall be the City Sealer. There shall be such other necessary Deputy Sealers and technical and clerical personnel, as the City Council may from time to time authorize who shall be appointed by the Director of Executive Administration subject to Civil Service laws and regulations.
(Ord. 122845, § 2, 2008; Ord. 120794 § 185, 2002: Ord. 120181 § 109, 2000: Ord. 118397 § 94, 1996: Ord. 117169 § 119, 1994: Ord. 102635 § 1, 1973: Ord. 98820 § 8, 1970.)

7.04.135 Powers and duties.

The City Sealer shall have the custody of the City standards of weight and measure and of the other standards and equipment provided for by this code, and shall keep accurate records of the same. The City Sealer shall enforce the provisions of this code and of the State Weights and Measures Act (RCW Chapter 19.94). He shall have and keep a general supervision over the weights and measures offered for sale, sold, or in use in the City. He may establish rules and regulations consistent with this code for enforcing and carrying out the provisions of this code.
(Ord. 98820 § 9, 1970.)

7.04.140 Official guide of City Sealer--Correct or incorrect apparatus.

The City Sealer shall use as his official guide in the enforcement of this code the specifications,

tolerances, and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the National Bureau of Standards Handbook 44, and supplements thereto and revisions thereof. For the purpose of this code, apparatus shall be deemed to be "correct" when it conforms to all such applicable specifications, tolerances, and regulations; other apparatus shall be deemed to be "incorrect."
(Ord. 100903 § 1, 1972: Ord. 98820 § 10, 1970.)

7.04.145 General testing.

A. When not otherwise provided by law, the City Sealer shall have the power to inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. It shall be the duty of the City Sealer to inspect and test, to ascertain if they are correct, all weights and measures commercially used as often as necessary to secure compliance with this code. This shall include but not be limited to commercial use: (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight or of measure, (2) in computing the basic charge or payment for services rendered on the basis of weight or measure, or (3) in determining weight or measurement when a charge is made for such determination; provided, that with respect to single-service devices, that is, devices designed to be used commercially only once and to be then discarded, and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing of each individual device shall not be required and the inspecting and testing requirements of this section will be satisfied when inspections and tests are made on representative sample lots of such devices; and the larger lots of which such sample lots are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such sample lots.

B. The City Sealer shall have the power to inspect and test, to ascertain if they are correct, all electronic price scanning systems, as often as necessary to secure compliance with this code. Electronic price scanning systems will be inspected following procedures contained in National Conference on Weights and Measures (NCWM) Publication 19 Examination Procedure for Price Verification (August 1995) as revised.
(Ord. 122845, § 3, 2008; Ord. 120976 § 2, 2002: Ord. 98820 § 11, 1970.)

7.04.150 Investigations.

The City Sealer shall investigate complaints made to him concerning violations of this code, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determinations and on possible violations of the provisions of this code and to promote the general objective of accuracy on the determination and representation of quantity in commercial transactions.
(Ord. 98820 § 12, 1970.)

7.04.155 Inspection of packages.

The City Sealer shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale, or sold, in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered, or exposed for sale, or sold in violation of law, the City Sealer may

order them off sale and may mark or stamp them in a manner as to show them to be "illegal." In carrying out the provisions of this section, the City Sealer may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall: (A) sell, or keep, offer, or expose for sale any package or amount of commodity that has been ordered off sale as provided in this section unless and until such package or amount of commodity has been brought into full compliance with legal requirements, or (B) dispose of any package or amount of commodity that has been ordered off sale and that has not been brought into compliance with legal requirements, in any manner except with the specific approval of the City Sealer.
(Ord. 98820 § 13, 1970.)

7.04.160 Stop-use, stop-removal, and removal orders.

The City Sealer shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this code he deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified, or fail to remove from the premises specified, any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.
(Ord. 98820 § 14, 1970.)

7.04.165 Disposition of correct and incorrect apparatus.

The City Sealer shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be "correct" as defined in Section 7.04.140, and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be "incorrect" as defined in Section 7.04.140, but which in his best judgment are susceptible of satisfactory repair; provided, that the sealing or marking requirements of this section shall not be required with respect to such weights and measures as have been exempted by regulation of the City Sealer on the basis that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. The City Sealer shall condemn, and may seize and may destroy, weights and measures found to be incorrect that in his best judgment are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the City Sealer if not corrected as required by Section 7.04.170 or if used or disposed of contrary to the requirements of Section 7.04.170.
(Ord. 98820 § 15, 1970.)

7.04.170 Duty of owners of incorrect apparatus.

Weights and measures that have been rejected under the authority of the City Sealer or a Deputy Sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within ten (10) days or such longer period as may be authorized by the rejecting authority; or, in lieu thereof, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct or until specific written

permission for such use is issued by the rejecting authority.
(Ord. 98820 § 16, 1970.)

7.04.175 Police powers--Right of entry.

With respect to the enforcement of this code and any other law dealing with weights and measures, packaging, or electronic price scanning systems that the City Sealer is, or may be empowered to enforce, the City Sealer is vested with the powers of a special policeman, and is authorized to arrest any violator of the code and to seize for use as evidence incorrect or unsealed weights and measures or amounts or packages or commodity, used, retained, offered or exposed for sale, or sold in violation of law. Upon presentation of proper credentials, the City Sealer is authorized with the consent of the occupant or pursuant to a lawfully issued warrant at reasonable times during the normal business hours of the person using the weights and measures or electronic price scanning to enter into or upon any structure or premises where weights and measures or electronic price scanning are used or kept for commercial purposes for the purpose of performing any duty imposed upon the City Sealer by this code.
(Ord. 122845, § 4, 2008; Ord. 120976 § 3, 2002: Ord. 98820 § 17, 1970.)

7.04.180 Powers and duties of Deputy Sealers.

The powers and duties given to and imposed upon the City Sealer by Sections 7.04.140 through 7.04.165 and 7.04.175 are given to and imposed upon the Deputy Sealers also, when acting under the instructions and at the direction of the City Sealer.
(Ord. 98820 § 18, 1970.)

Subchapter IV

Packaging--Generally

7.04.200 Methods of sale--Measures, weights or counts.

Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this code, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply: (A) to commodities when sold for immediate consumption on the premises where sold, (B) to vegetables when sold by the head or bunch, (C) to commodities when in package form or in containers standardized by a law of the state or by federal law, (D) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (E) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (F) to unprocessed vegetable and animal fertilizer when sold by cubic measure.
(Ord. 98820 § 19, 1970.)

7.04.205 Declarations of quantity and origin.

Except as otherwise provided in this code, any commodity in package form introduced or delivered for

introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce, shall bear on the outside of the package definite, plain, and conspicuous declarations of: (A) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container, (B) the net quantity of the contents in terms of weight, measure, or count, and (C) in the case of any package kept, offered, or exposed for sale, or sold, any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; provided, that in connection with the declaration required under clause (B), neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package, shall be used.
(Ord. 98820 § 20, 1970.)

Cases: An ordinance requiring the true net weight or measure of commodities sold in containers to be stamped or printed on the container is within the City's police power. Seattle v. Goldsmith, 73 Wn. 54, 131 P. 456 (1913).

A special contract for the sale of certain articles in bulk by gross weight does not violate an ordinance which generally prohibits such sales, so long as the vendee is not overreached or deceived. Seattle v. Yokum, 94 Wn. 194, 162 P.2d 56 (1917).

7.04.210 Declarations of single unit price on random packages.

In addition to the declarations required by Section 7.04.205, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.
(Ord.98820 § 21, 1970.)

7.04.215 Misleading packages.

No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package.
(Ord. 98820 § 22, 1970.)

7.04.220 Advertising packages for sale.

Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package; provided, that where the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure (the declaration that is required to appear first and without parentheses on the package) need appear in the advertisement; and provided further, that there shall not be included as part of the declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package.
(Ord. 98820 § 23, 1970.)

Subchapter V

Packaging--Specifications

7.04.250 Subchapter applicability.

This subchapter shall apply to commodities in package form except those:

A. In inner wrappings not intended to be individually sold to the consumer;

B. In auxiliary containers not intended to be sold to the consumer intact, bearing no printed matter pertaining to any commodity, and enclosing packages that are individually marked in conformance with the requirements of this subchapter;

C. In containers used for retail tray pack displays when the container is not intended to be sold; or

D. Commodities put up in variable weights and sizes for sale intact and intended to be either weighed or measured at the time of sale, where no package quantities are represented, and where the method of sale is clearly indicated in close proximity to the quantity being sold; or

E. Open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by this code.
(Ord. 98820 § 24(part), 1970.)

7.04.255 Definitions.

A. "Label" means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package.

B. "Multiunit package" means a package containing two or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multiunit package but capable of being individually sold in full compliance with all requirements of this code.

C. "Package" means any container or wrapper in which any commodity is enclosed for use in the delivery or display for sale of that commodity, but does not include shipping containers or wrappers used solely for the transportation of any such commodity in bulk or in quantity to manufacturers, processors, or distributors.

D. "Principal display panel or panels" means that part, or those parts, of a label that is, or are, so designed as to be most likely to be displayed, presented, shown, or examined under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, all requirements pertaining to the principal display panel shall pertain to all such principal display panels.

E. "Random package" means a package that is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.
(Ord. 98820 § 24(A), 1970.)

7.04.260 Declaration of identity--Contents.

A declaration of identity shall appear on the principal display panel and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.
(Ord. 98820 § 24(B) (part), 1970.)

7.04.265 Declaration of identity--Placement.

A declaration of identity shall appear generally parallel to the base on which the package rests as it is designed to be displayed.
(Ord. 98820 § 24(B)(1), 1970.)

7.04.270 Identification of manufacturer, packer or distributor.

A. Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed shall specify conspicuously on the label of the package the name and address of the manufacturer, packer, or distributor. The name shall be the actual corporate name, or, when not incorporated, the name under which the business is conducted. The address shall include street address, city, state, and ZIP Code; however, the street address may be omitted if this is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP Code shall apply only to labels that have been developed or revised after July 1, 1968.

B. If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as "Manufactured for and packed by _____," "Distributed by _____," or any other wording of similar import that expresses the facts.
(Ord. 98820 § 24(C), 1970.)

7.04.275 Declaration of quantity--Largest whole unit.

Where this subchapter requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed in:

A. Common or decimal fractions of such largest whole unit; or in

B. The next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.
(Ord. 98820 § 24(D)(1), 1970.)

7.04.280 Net quantity.

The principal display panel of the package shall bear a declaration of the net quantity of the commodity in the package exclusive of wrappers and any other material packed with such commodity; provided, that the

declaration of quantity on an aerosol package shall disclose the net quantity of the commodity (including propellant) that will be expelled when the instructions for use as shown on the container are followed; and provided further, that the term "net weight" shall be used when stating the net quantity of contents in terms of weight; and provided further, that a quantity declaration may appear on more than one (1) line of print or type.
(Ord. 98820 § 24(D)(2), 1970.)

7.04.285 Terms used to describe quantity.

The declaration of the quantity of a particular commodity shall be expressed in such terms of weight, measure, or count, or a combination of count and weight, measure, or size, as have been firmly established in general consumer usage and trade custom and as give accurate and adequate information as to the quantity of the commodity; provided, that if there exists no firmly established general consumer usage and trade custom with respect to the terms used in expressing such declaration of quantity, the declaration shall be in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid; and provided further, that if the commodity is packaged in an aerosol container, the declaration shall be in terms of weight (including the propellant).
(Ord. 98820 § 24 (D)(3), 1970.)

7.04.290 Quantity in weight or measure.

A declaration of quantity in terms of weight or measure shall be accompanied by a declaration of the count or size of the individual units of the commodity, unless the declaration of weight or measure alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.
(Ord. 98820 § 24(D)(3)(1), 1970.)

7.04.295 Quantity in count.

A declaration of quantity in terms of count shall be supplemented by a declaration of the weight, measure, or size of the individual units of the commodity, or of the total weight or measure of the commodity, unless a declaration of count alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.
(Ord. 98820 § 24(D)(3)(2), 1970.)

7.04.300 Multi-unit packages.

A. Any package containing more than one (1) individual commodity in package form of the same commodity shall bear on the outside of the package a declaration of:

1. The number of individual units;

2. The quantity of each individual unit; and

3. The total quantity of the contents of the multi-unit package; provided, that the requirement for a declaration of the total quantity of contents of a multiunit package shall be effective with respect to those labels revised after January 1, 1970. Any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation.

B. Whenever the quantity declaration appearing on individual units of a multiunit package is located other than in the lower thirty percent (30%) of the principal display panel, the individual units of that multiunit package may not be separately sold.
(Ord. 98820 § 24(D)(3)(3), 1970.)

7.04.305 Combination packages.

Any package containing individual units of dissimilar commodities (such as an antiquing kit, for example) shall bear on the label of the package a quantity declaration for each unit.
(Ord. 98820 § 24(D)(3)(4), 1970.)

7.04.310 Variety packages.

Any package containing individual units of reasonably similar commodities (such as, for example, seasonal gift packages, variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package.
(Ord. 98820 § 24(D)(3)(5), 1970.)

7.04.315 Cylindrical containers.

In the case of cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that forty percent (40%) of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.
(Ord. 98820 § 24(D)(3)(6), 1970.)

7.04.320 Units of measure to be used.

A declaration of quantity:

A. In units of weight, shall be in terms of the avoirdupois pound or ounce;

B. In units of liquid measure, shall be in terms of the United States gallon of two hundred thirty-one (231) cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight (68) degrees Fahrenheit (twenty (20) degrees Centigrade), except in the case of petroleum products, for which the declaration shall express the volume at sixty (60) degrees Fahrenheit (15.6 degrees Centigrade), and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at forty (40) degrees Fahrenheit (four (4) degrees Centigrade);

C. In units of linear measure, shall be in terms of the yard, foot, or inch;

D. In units of area measure, shall be in terms of the square yard, square foot, or square inch;

E. In units of dry measure, shall be in terms of the United States bushel of 2,150.42 cubic inches, or

peck, dry-quart, and dry-pint subdivisions of the bushel;

F. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch;

Provided, that in the case of drugs, in lieu of any requirement to the contrary, the declaration of quantity may be in terms of a unit of the metric system of weight or measure: and provided further, that in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of a system of weight or measure in common use in the country to which such shipment is to be exported; and provided further, that when packages of fluid dairy products and packages of ice cream and similar frozen desserts are put up for sale in quantities of eight (8), sixteen (16), thirty-two (32) or sixty-four (64) fluid ounces, the quantity declaration may be expressed as "(1/2) pint," "1 pint," "1 quart," " 1/2 gallon," "1 gallon," respectively.
(Ord. 98820 § 24(D)(4) (part), 1970.)

7.04.325 Abbreviations.

Any of the following abbreviations, and none other, may be employed in the quantity statement of a commodity or package of commodity:

avoirdupois	avdp	ounce	oz	cubic centi-	
cubic	cu	pint	pt	meter	cc
feet or foot	ft	pound	lb	gram	g
fluid	fl	quart	qt	kilogram	kg
gallon	gal	square	sq	microgram	mcg
inch	in	weight	wt	milligram	mg
liquid	liq	yard	yd	milliliter	ml

(There normally are no periods following, nor plural forms of, these abbreviations. For example, the abbreviation is "oz" for both "ounce" and "ounces.")
(Ord. 98820 § 24(D)(4)(1), 1970.)

7.04.330 Units with two or more meanings.

When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term "fluid"; however, such distinction may be omitted when, by association of terms (for example, as in 1 pint 4 ounces), the proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word "dry."
(Ord. 98820 § 24(D)(5), 1970.)

7.04.335 Quantity of less than one foot, square foot, pound, or pint.

The declaration of quantity shall be expressed in terms of:

A. In the case of length measure of less than one foot (1'), inches and fractions of inches;

B. In the case of area measure of less than one (1) square foot, square inches and fractions of square inches;

C. In the case of weight or fluid measure of less than one (1) pound or one (1) pint, ounces and fractions of ounces;

Provided, that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two (2) decimal places.

(Ord. 98820 § 24(D)(6)(1), 1970.)

7.04.340 Quantity of four or more feet, square feet, pounds, or gallons.

In the case of:

A. Length measure of four feet (4') or more;

B. Area measure of four (4) square feet or more; and

C. Weight or fluid measure of four (4) pounds or more, or one (1) gallon or more;

the declaration of quantity shall be expressed in terms of the largest whole unit.

(Ord. 98820 § 24(D)(6)(2), 1970.)

7.04.345 Weight or fluid measure--Dual quantity declaration.

On packages containing one (1) pound or more but less than four (4) pounds, or one (1) pint or more but less than one (1) gallon, the declaration shall be expressed in ounces and, in addition, shall be followed by a declaration, presented in parentheses, in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two (2) decimal places.

(Ord. 98820 § 24(D)(6)(3), 1970.)

7.04.350 Length measure--Dual quantity declaration.

On packages containing one foot (1') or more but less than four feet (4'), the declaration shall be expressed in inches and, in addition, shall be followed in parentheses by a declaration expressed in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of feet and decimal fractions of the foot carried out to not more than two (2) decimal places.

(Ord. 98820 § 24(D)(6)(4), 1970.)

7.04.355 Area measure--Dual quantity declaration.

On packages containing one (1) square foot or more but less than four (4) square feet, the declaration shall be expressed in square inches and, in addition, shall be followed in parentheses by a declaration expressed in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of square feet and decimal fractions of the square foot carried out to not more than two (2) decimal places.

(Ord. 98820 § 24(D)(6)(5), 1970.)

7.04.360 Bidimensional commodities.

For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

A. If less than one (1) square foot, in terms of linear inches and fractions of linear inches;

B. If at least one (1) square foot but less than four (4) square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit; provided, that:

1. No square-inch declaration is required for a bidimensional commodity of four inches (4") width or less, and

2. A dimension of less than two feet (2') may be stated in inches within the parenthetical, and

3. Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see Section 7.04.365) require a declaration of unit area but not a declaration of total area of all such units;

C. If four (4) square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole units; provided, that:

1. No declaration in square feet is required for a bidimensional commodity with a width of four inches (4") or less,

2. A dimension of less than two feet (2') may be stated in inches within the parenthetical, and

3. No declaration in square feet is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(Ord. 98820 § 24(D)(6)(6), 1970.)

7.04.365 Count--Ply.

A. If the commodity is in individually usable units of one or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this subchapter, include the number of ply and the total number of usable units.

B. Roll-type commodities, when perforated so as to identify individual usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of:

1. Total area measurement; and

2. Number of ply;

3. Count of usable units; and

4. Dimensions of a single usable unit.

(Ord. 98820 § 24(D)(6)(7), 1970.)

7.04.370 Reduction of fractions.

Fractions employed in declarations of quantity may be either common fractions or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds, and shall be reduced to its lowest terms. A decimal fraction shall not be carried out to more than two places; provided, that if there exists with respect to a particular commodity a firmly established general consumer usage and trade custom contrary to the requirement pertaining to common fractions, as set forth in this section, for the reduction of a common fraction to its lowest terms, the declaration may be made in accordance with such usage and custom: and provided further, that in the case of drugs, a decimal fraction may be carried out to three (3) places.
(Ord. 98820 § 24(D)(7), 1970.)

7.04.375 Supplementary quantity declarations.

The required quantity declaration may be supplemented by one or more declarations of weight, measure, or count, such as declarations appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any terms qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package (e.g., "giant" quart, "full" gallon, "when packed," "minimum," or words of similar import).
(Ord. 98820 § 24(D)(8)(1), 1970.)

7.04.380 Metric system declarations.

A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement of quantity in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.
(Ord. 98820 § 24(D)(8)(2), 1970.)

7.04.385 Average quantity at least equal to declared quantity.

The average quantity of contents in the packages of a particular lot, shipment or delivery shall at least equal the declared quantity, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery or lot compensate for such shortage.
(Ord. 98820 § 24(D)(9), 1970.)

7.04.390 Qualification of declaration prohibited.

In no case shall any declaration of quantity be qualified by the addition of the words "when packed," "minimum," or "not less than," or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as "jumbo," "giant," "full," or the like) that tends to exaggerate the amount of commodity.

(Ord. 98820 § 24(D)(10), 1970.)

7.04.395 Information to be prominent and legible.

All information required to appear on a consumer package shall appear thereon in the English language and shall be prominent, definite, and plain, and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.
(Ord. 98820 § 24(E)(1), 1970.)

7.04.400 Location of declaration of quantity.

The declaration or declarations of quantity of the contents of a package shall appear in the bottom thirty percent (30%) of the principal display panel or panels, except as otherwise provided in Section 7.04.315.
(Ord.98820 § 24(E)(1)(1), 1970.)

7.04.405 Style of type or lettering.

The declaration or declarations of quantity shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the package, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface is permissible when all label information is blown, formed, or molded on the surface.
(Ord. 98820 § 24(E)(1)(2), 1970.)

7.04.410 Color contrast.

The declaration or declarations of quantity shall be in a color that contrasts conspicuously with its background, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color.
(Ord. 98820 § 24(E)(1)(3), 1970.)

7.04.415 Free area.

The area surrounding the quantity declaration shall be free of printed information:

A. Above and below, by a space equal to at least the height of the lettering in the declaration; and

B. To the left and right, by a space equal to twice the width of the letter "N" of the style and size of type used in the declaration.
(Ord. 98820 § 24(E)(1)(4), 1970.)

7.04.420 Calculation of area of principal display panel for purposes of type size.

A. The square-inch area of the principal display panel shall be:

1. In the case of a rectangular container, one entire side which properly can be considered to be the principal display panel, the product of the height times the width of that side ;

2. In the case of a cylindrical or nearly cylindrical container, forty percent (40%) of the product of the height of the container times the circumference; or

3. In the case of any other shaped container, forty percent (40%) of the total surface of the container, unless such container presents an obvious principal display panel (e.g., the top of a triangular or circular package of cheese, or the top of a can of shoe polish), the area shall consist of the entire such surface.

B. Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.
(Ord. 98820 § 24(E)(2) (part), 1970.)

7.04.425 Minimum height of numbers and letters.

The height of any letter or number in the required quantity declaration shall be not less than that shown in Table 1 with respect to the square-inch area of the panel, and the height of each number of a common fraction shall meet one-half (1/2) the minimum height standards.

TABLE I Minimum Height of Numbers and Letters

Square-inch Area of Principal Display Panel	Minimum Height of Numbers and Letters	Minimum Height Label Information Blown, Formed, or Molded Into Surface of Container
5 square inches and less	1/16 inch	1/8 inch
Greater than 5 square inches and not greater than 25 square inches	1/8 inch	3/16 inch
Greater than 25 square inches and not greater than 100 square inches	3/16 inch	1/4 inch
Greater than 100 square inches and not greater than 400 square inches	1/4 inch	5/16 inch
Greater than 400 square inches	1/2 inch	9/16 inch

(Ord. 98820 § 24(E)(2)(1), 1970.

7.04.430 Packages exempt from dual quantity declaration.

Whenever any consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit.
(Ord. 98820 § 24(F)(1), 1970.)

7.04.435 Random packages.

A random package bearing a label conspicuously declaring:

A. The net weight;

B. The price per pound; and

C. The total price;shall be exempt from the type size, dual declaration, placement, and free area requirements of this regulation. In the case of a random package of food packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both such prices at the time it is offered or exposed for sale at retail.
(Ord. 98820 § 24(F)(2), 1970.)

7.04.440 Penny candy.

When individually wrapped pieces of "penny candy" or individually wrapped pieces of candy of less than one-half (1/2) ounce net weight are shipped or delivered in containers that conform to the labeling requirements of this subchapter, such individual pieces shall be exempt from such labeling requirements.
(Ord. 98820 § 24(F)(3), 1970.)

7.04.445 Individual servings.

Individual-serving-size packages of foods containing less than one-half (1/2) ounce or less than one-half (1/2) fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this subchapter.
(Ord. 98820 § 24(F)(4), 1970.)

7.04.450 Cuts, plugs, and twists of tobacco and cigars.

When individual cuts, plugs, and twists of tobacco and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this subchapter, such individual cuts, plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements.
(Ord. 98820 § 24(F)(5), 1970.)

7.04.455 Reusable (returnable) glass containers.

Nothing in this subchapter shall be deemed to preclude the continued use of reusable (returnable) glass containers; provided, that such glass containers ordered after the effective date of this code[1] shall conform to all requirements of this subchapter.
(Ord. 98820 § 24(F)(6), 1970.)
1. Editor's Note: The Weights and Measures Code adopted by Ord. 98820 became effective May 17, 1970.

7.04.460 Containers standardized by device regulation.

Containers such as milk bottles, lubricating-oil bottles, and measure-containers, for which standards are established and specifications are set forth in National Bureau of Standards Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices," shall be

exempt from the requirements as set forth in Sections 7.04.395 through 7.04.425.
(Ord. 98820 § 24(F)(7), 1970.)

7.04.465 Packaged commodities with labeling requirements specified in federal law.

Packages of meat and meat products, poultry and poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, prescription drugs, alcoholic beverages, and seeds shall be exempt from the requirements set forth in Sections 7.04.275 through 7.04.425; provided, that quantity labeling requirements for such products are specified in federal law or regulations issued pursuant to federal law, so as to follow reasonably sound principles of providing consumer information.
(Ord. 98820 § 24(F)(8), 1970.)

7.04.470 Fluid dairy products, ice cream, and similar frozen desserts.

When packages of fluid dairy products and packages of ice cream and similar frozen desserts are standardized by law or regulation of the state, such packages shall be exempt from the requirements in this subchapter for Sections 7.04.345 and 7.04.400.
(Ord. 98820 § 24(F)(9), 1970.)

7.04.475 Variations from declared net quantity.

Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity comprising either a shipment or other delivery of the commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large.
(Ord. 98820 § 24(G)(1)(1), 1970.)

7.04.480 Variations resulting from exposure.

Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce; provided, that the phrase "introduced into intrastate commerce" as used in this section shall be construed to define the time and the place at which the first sale and delivery of a package is made within the state, the delivery being either:

A. Directly to the purchaser or to his agent; or

B. To a common carrier for shipment to the purchaser; and this paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted.

(Ord. 98820 § 24(G)(1)(2), 1970.)

7.04.485 Variations to be determined by individual cases.

The magnitude of variations permitted under Sections 7.04.475 and 7.04.480 shall, in the case of any shipment, delivery, or lot, be determined by the facts in the individual case.
(Ord. 98820 § 24(G)(2), 1970.)

Subchapter VI

Sale by Net Weight

7.04.500 Weight defined.

"Weight," as used in this Code in connection with any commodity, shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.
(Ord. 98820 § 25, 1970.)

7.04.505 Misrepresentation of price.

Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (1/2) the height and width of the numerals representing the whole cents.
(Ord. 98820 § 26, 1970.)

7.04.510 Meat, poultry, and seafood.

Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold, as a unit, for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts), and all seafood including shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight.
(Ord. 98820 § 27, 1970.)

7.04.515 Bread.

No person shall manufacture for sale, sell or offer or expose for sale, any bread except in the following weights, which shall be the net weight at least twelve (12) hours after baking: "standard small loaf," which shall weigh not less than fifteen (15) ounces and not more than seventeen (17) ounces; "standard large loaf," which

shall weigh not less than twenty-two and one-half (22 1/2) ounces and not more than twenty-five and one-half (25 1/2) ounces; or multiples of the foregoing weights for the standard small loaf and standard large loaf; provided, that variations at the rate of one (1) ounce over and one (1) ounce under the foregoing, per standard small loaf, or one and one-half (1 1/2) ounce over or under the foregoing, per standard large loaf, or any multiple of the foregoing variations per each multiple type loaf, in the above specified unit weights are permitted in individual loaves, but the average weight of not less than twelve (12) loaves of any kind of loaf shall not be less than the weight prescribed in this section. It shall be unlawful to sell or expose for sale bread in a loaf of such form that it has the appearance and size of a loaf of greater weight.
(Ord. 98820 § 28, 1970.)

7.04.520 Butter, oleomargarine, and margarine.

Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight, and only in units of one-quarter (1/4) pound, one-half (1/2) pound, one pound, or multiples of one (1) pound, avoirdupois weight.
(Ord. 98820 § 29, 1970.)

7.04.525 Fluid dairy products.

All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of one (1) gill, one-half (1/2) liquid pint, ten (10) fluid ounces, one (1) liquid pint, one (1) liquid quart, one-half (1/2) gallon, one (1) gallon, one and one-half (1 1/2) gallons, two (2) gallons, two and one-half (2 1/2) gallons, or multiples of one (1) gallon; provided, that packages in units of less than one (1) gill shall be permitted.
(Ord. 98820 § 30, 1970.)

7.04.530 Flour, cornmeal, and hominy grits.

When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, cornmeal, and hominy grits shall be packaged only in units of five (5), ten (10), twenty-five (25), fifty (50) or one hundred (100) pounds, avoirdupois weight; provided, that packages in units of less than five (5) pounds or more than one hundred (100) pounds shall be permitted.
(Ord. 106516 § 1, 1977: Ord. 98820 § 31, 1970.)

7.04.535 Bulk deliveries sold in terms of weight and delivered by vehicle.

When a vehicle delivers to an individual purchaser a commodity in bulk, and the commodity is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket with the following information clearly stated, in ink or by means of other indelible marking equipment and, in clarity, equal to type or printing: (A) the name and address of the vendor, (B) the name and address of the purchaser, and (C) the net weight of the delivery expressed in pounds; and if the net weight is derived from determinations of gross and tare weights, such gross and tare weights also shall be stated in terms of pounds. One of these tickets shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered, on demand, to the City Sealer or Deputy Sealer, who, if he desires to retain

it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser; provided, that if the purchaser, himself, carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to him.
(Ord. 98820 § 32, 1970.)

7.04.540 Furnace and stove oil.

All furnace and stove oil shall be sold by liquid measure or by net weight in accordance with the provisions of Section 7.04.200. In the case of each delivery of such liquid fuel not in package form and in an amount greater than ten (10) gallons in the case of sale by liquid measure or one hundred (100) pounds in the case of sale by weight, there shall be rendered to the purchaser, either: (A) at the time of delivery or (B) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or by means of other indelible marking equipment and, in clarity, equal to type or printing, there shall be clearly stated: (1) the name and address of the vendor, (2) the name and address of the purchaser, (3) the identity of the type of fuel comprising the delivery, (4) the unit price (that is, the price per gallon or per pound, as the case may be) of the fuel delivered, (5) in the case of sale by liquid measure, the liquid volume of the delivery, together with any meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions, and (6) in the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.
(Ord. 98820 § 33, 1970.)

7.04.545 Berries and small fruits.

Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of one-half (1/2) dry pint, one (1) dry pint, or one (1) dry quart; provided, that the marking provisions of Section 7.04.205 shall not apply to such containers.
(Ord. 98820 § 34, 1970.)

Subchapter VII

Weighmaster License

7.04.565 License required.

It is unlawful for any person, firm or corporation, to become, act as, or hold himself/herself out to be a City Weighmaster, or a City Weigher, without first obtaining and being the holder of a valid and subsisting license so to do, to be known as a "City Weighmaster license" and/or a "City Weigher license."
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(A), 1970.)

7.04.570 Weighmaster license--Application, issuance and fee.

Any person, firm or corporation possessing a scale that complies with the specifications, tolerances, and other technical requirements for weighing devices, together with amendments thereto, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44, may make

application to the City Sealer (Director of Executive Administration) to be appointed a Licensed City Weighmaster. If the scale is approved by the City Sealer, he or she may in his or her discretion so appoint the applicant and shall issue a City Weighmaster license in accordance with such appointment. The annual fee for such license shall be Forty Dollars ($40.00) which shall accompany the application, and all such licenses shall expire at midnight April 30th of each year, but may be renewed from year to year by the City Sealer upon payment of the annual fee. If the original application for a City Weighmaster's license and/or a City Weigher's license is made within six (6) months of the date fixed for expiration of the annual license, the fee shall be one-half (1/2) the annual fee.
(Ord. 120794 § 186, 2002: Ord. 118395 § 16, 1996: Ord. 117169 § 120, 1994: Ord. 116450 § 1, 1992: Ord. 116368 § 198, 1992: Ord. 113184 § 1, 1986: Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(B), 1970.)

7.04.575 Weigher license application.

Such license shall authorize the holder to apply in writing to the City Sealer for appointment of such holder or one (1) or more of his or her employees or the officers if a corporation, as a Licensed City Weigher. If the City Sealer finds that the prospective appointee has ability to correctly weigh and use the scale and determine the gross, tare and net weights of any article or commodity which he/she weighs, the City Sealer may so appoint and issue a City Weigher license in accordance with such appointment.
(Ord. 116368 § 199, 1992: Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(C), 1970.)

7.04.580 Authorization to issue certificates of weights.

Such license shall authorize the holder to issue certified weight certificates at the location designated in the license in conformity with the standards of weights and measures authorized and established by this Code. The license shall expire at midnight April 30th of each year and may be renewed from year to year by the City Sealer. Such license shall authorize the Licensed City Weigher in the name of the Licensed City Weighmaster to issue certificates of weights only at the location designated in his/her license and shall not be transferable from one (1) person to another nor from one (1) location to another.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(D), 1970.)

7.04.585 Renewal of license--Late fees.

A. Any person who has held a license in the previous license year for which an annual license period is prescribed and who continues to engage in the activity shall, upon failure to make timely application for renewal of the license, pay a late renewal fee as follows:

1. If the renewal application is received after the date of expiration of the previous license but before the end of thirty (30) days into the new license year: ten percent (10%) of the annual license fee or Ten Dollars ($10.00) whichever is greater;

2. If the renewal application is received after thirty (30) days into the new license year: twenty percent (20%) or Twenty-five Dollars ($25.00), whichever is greater.

B. No annual license shall be issued until any late renewal fee has been paid; provided, that payment of the late renewal fee may be waived whenever the Director finds that timely application was beyond the control of the licensee by reason of severe circumstances; for example, serious illness of the licensee, death or incapacity of an accountant or other person who retains possession of the licensee's license records, loss of business records due to theft, fire, flood or other similar acts.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(E), 1970.)

7.04.590 Duties of Licensed City Weigher.

Any Licensed City Weigher shall at any time without charge weigh any article or commodity on the scale for which he/she is licensed, brought there by the City Sealer or any Deputy Sealer, and issue a certificate of weight therefor; and he/she shall without charge weigh upon such scale, and issue a certificate of weight therefor, on any article or commodity for which the Licensed City Weighmaster is vendor. The delivery or sales ticket required by this code to be delivered to the consumer shall bear thereon a statement which shall be signed by the Licensed City Weigher for the Licensed City Weighmaster to the effect that the weight shown thereon is true and correct and shall also bear an impression of a seal of the Licensed City Weighmaster which shall be placed thereon by the Licensed City Weigher who actually weighs the article or commodity. The Licensed City Weighmaster shall by himself/herself or through his/her Licensed City Weigher keep a record of each certified weight issued in his/her name, which record shall be open to inspection by the City Sealer or any Deputy Sealer during all business hours.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(F), 1970.)

7.04.595 Seal presses.

The seal presses required to be used for certification shall be the property of the City and shall be forfeited and returned to the City Sealer upon revocation or termination of the appointment of the Licensed City Weighmaster. Such seals shall be of a form and design prescribed by the City Sealer and secured from him/her at the expense of the Licensed City Weighmaster.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(G), 1970.)

7.04.600 Weighing of vehicles.

The City Sealer or any Deputy Sealer may require the driver of any vehicle containing any commodity that has been weighed by a Licensed City Weigher to again visit the same scale or another scale and to again weigh such commodity or article and/or vehicle for gross, tare and net weights, and it shall be unlawful for such driver to refuse so to do. In event the weights certified by such Licensed City Weigher shall be found incorrect, the City Sealer or Deputy Sealer shall retain the delivery ticket thus certified in his/her possession and require the issuance of a new and correct certified delivery ticket. It shall be unlawful to issue, use or deliver any false, incomplete or irregular certified delivery ticket.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(H), 1970.)

7.04.605 Only authorized persons to certify weights.

It shall be unlawful for any person other than the City Sealer or Deputy Sealer or a Licensed City Weigher to certify the weights of any commodity and no such Weigher shall use any motor truck scale and issue a certificate of weight thereon for less than one thousand (1,000) pounds.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(1), 1970.)

7.04.610 Revocation of appointment.

The City Sealer may revoke the appointment of any such Weighmaster or Weigher not conforming to the requirements of this Code and no compensation shall be paid by the City to any such Weighmaster or Weigher.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(J), 1970.)

7.04.615 Delivery of certificate to consumer.

It is unlawful to deliver any commodity or article weighed by a Licensed City Weigher to any consumer unless the certificate of weight thereof on a form approved by the City Sealer is delivered to the consumer at the time of the delivery of the article or commodity; provided, that when a Licensed City Weighmaster is the buyer of any commodity and weighs such he shall deliver to the seller of such commodity a certificate of weight on a form approved by the City Sealer.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(K), 1970.)

7.04.620 Alteration of weight or certificate prohibited.

It is unlawful for any person to alter, vary or lessen the weight or measure of any load of any commodity commonly sold by weight or measure, after the same has been weighed upon the vendor's scale, or has been officially weighed or measured, by abstracting or unloading therefrom any portion of such commodity, except at the place where the same was directed by the buyer to be delivered, or to alter or change any weight slip or Deputy Weighmaster's certificate accompanying such delivery.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(L), 1970.)

7.04.625 Use of official tickets, certificates or statements.

It is unlawful to use, exhibit, issue or deliver any weight ticket, certificate of weight or measure or statement of weight or measure of any kind on which in whole or in part is impressed or stamped by seal, or otherwise, or printed or written, or set forth thereon in any manner, the words "City of Seattle," or name of any department or division, office or officer or employee of the City, unless authorized by this Code.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(M), 1970.)

7.04.630 Surrender of license to City Sealer.

Upon revocation of any City Weighmaster's license, such license and all City Weigher's licenses issued under the City Weighmaster's license, shall be surrendered to the City Sealer. A City Weighmaster, upon termination of employment of any Licensed City Weigher, or upon revocation of any City Weigher's license, shall surrender such license to the City Sealer.
(Ord. 107158 § 22(part), 1978: Ord. 106025 § 10(part), 1976: Ord. 102635 § 2(part), 1973: Ord. 98820 § 35(N), 1970.)

Subchapter VIII

Special Inspection Service

7.04.645 Registration--Fees.

A. Except as provided in subsection F of this section, no weighing or measuring instrument or device, or electronic price scanning system, may be used for commercial purposes in the city unless its commercial use is registered annually with The City of Seattle Department of Executive Administration.

B. The annual registration with The City of Seattle Department of Executive Administration for weighing or measuring instruments or devices is accomplished as part of the State of Washington master license system under RCW Chapter 19.02. Payment of an annual registration fee for a weighing or measuring instrument or device under the State of Washington master license system constitutes the registration required by this section. The annual registration with The City of Seattle Department of Executive Administration for electronic price scanning systems is accomplished as part of The City of Seattle annual business license requirement under Seattle Municipal Code Section 5.55.030. Payment of the registration fee with the annual business license application or renewal constitutes the registration required by this section.

C. The following annual City registration fees must be paid for each weighing or measuring instrument or device used for commercial purposes in The City of Seattle:

1. Weighing devices:

   a. Small scales "zero to four hundred (400) pounds capacity"....$10.00

   b. Intermediate scales "four hundred one (401) pounds to five thousand (5,000) pounds capacity"....$40.00

   c. Large scales "over five thousand (5,000) pounds capacity"....$75.00

   d. Railroad track scales....$800.00

2. Liquid fuel metering devices:

   a. Motor fuel meters with flows of twenty (20) gallons or less per minute....$10.00

   b. Motor fuel meters with flows of more than twenty (20) but not more than one hundred fifty (150) gallons per minute....$32.00

c. Motor fuel meters with flows over one hundred fifty (150) gallons per minute....$50.00

3. Liquid petroleum gas meters:

a. With one (1) inch diameter or smaller dispensers....$25.00

b. With greater than one (1) inch diameter dispensers....$50.00

4. Fabric meters....$10.00

5. Cordage meters....$10.00

6. Mass flow meters....$200.00

7. Taxi meters....$25.00

D. The following annual City registration fees must be paid for each electronic price scanning system used for commercial purposes in The City of Seattle:

1. Electronic price scanning systems with three (3) or fewer electronic pricing devices....$150.00

2. Electronic price scanning systems with more than three (3) electronic price scanning devices....$300.00

E. The fees established in subsection C for registering a weighing or measuring instrument or device shall be paid to the State of Washington Department of Licensing concurrently with a master application or with the annual renewal of a master license under RCW Chapter 19.02. The fees established for electronic pricing systems in subsection D shall be paid with The City of Seattle annual business license application or renewal.

F. A weighing or measuring instrument or device, or electronic price scanning system, shall be initially registered with The City of Seattle Department of Executive Administration as follows: A weighing or measuring device is initially registered through The State of Washington Department of Licensing at the time the owner applies for a master license for a new business or at the first renewal of the license that occurs after the instrument or device is first placed into commercial use. An electronic price scanning system is initially registered through The City of Seattle Department of Executive Administration when the owner applies for an initial business license or the first renewal of the business license after the instrument or device is first placed into commercial use.

G. The State of Washington Department of Licensing shall remit to The City of Seattle, through The State of Washington Department of Agriculture, all fees collected under this section less reasonable collection expenses.

H. With the exception of Section 7.04.650, no person shall be required to pay more than the fee adopted under this section for any weighing or measuring instrument or device, or electronic price scanning

system, in one (1) year.

I. A person who owns a weighing or measuring instrument or device, or electronic price scanning system, and uses or permits its use for commercial purposes without registration as provided in subsection A is subject to a civil penalty of Fifty Dollars ($50) per occurrence for each instrument or device, or system, used or permitted to be used.
(Ord. 122845, § 5, 2008; Ord. 122163, §§ 1, 2, 2006; Ord. 120976 § 4, 2002: Ord. 120181 § 110, 2000; Ord. 118397 § 95, 1996; Ord. 117917 § 3, 1995.)

7.04.650 Request for service.

A. "Special inspection service," as used in this Code, shall denote all inspection service made on the owner's request. Special inspection service fees are additional to the fees required under the annual registration. Special inspection service fees are to be paid directly to The City of Seattle Department of Finance.

B. The fees for special inspection service shall be as follows:
$30.00 PER HOUR OF INSPECTOR TIME WITH A ONE (1) HOUR MINIMUM.

All inspections will result in an invoice to the owner for each hour of inspection per inspector. The invoice shall reflect time spent per inspector, to include preparation and travel time to the site with any time spent past an hour billed to the next quarter hour. EXAMPLE: If two (2) inspectors took one (1) hour and twenty (20) minutes to complete an inspection, the invoice would total Ninety Dollars ($90) (two (2) inspectors (1.5 hours).
(Ord. 120181 § 111, 2000; Ord. 118397 § 96, 1996; Ord. 117917 § 4, 1995: Ord. 116368 § 200, 1992; Ord. 108196 § 3, 1979: Ord. 98820 § 36, 1970.)

Subchapter IX

Enforcement

7.04.675 Construction of contracts.

Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in Sections 7.04.015, 7.04.035, 7.04.075 and 7.04.100, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.
(Ord. 98820 § 37, 1970.)

7.04.680 Hindering or obstructing City Sealer.

It is unlawful for any person to hinder or obstruct in any way the City Sealer or any Deputy Sealer in the performance of his official duties, and anyone convicted of a violation of this section shall be punishable by a fine of not less than Twenty Dollars ($20) or more than Two Hundred Dollars ($200), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.
(Ord. 98820 § 38, 1970.)

7.04.685 Impersonation of City Sealer.

It is unlawful for any person to impersonate in any way the City Sealer or Deputy Sealer by the use of his seal or a counterfeit of his seal, or in any other manner, and anyone convicted of a violation of this section shall be punishable by a fine of not less than One Hundred Dollars ($100.00) or more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. (Ord. 98820 § 39, 1970.)

7.04.690 Offenses and penalties.

A. It is unlawful for any person, by himself or by his servant or agent, or as the servant or agent of another person, to:

1. Use, or have in possession for the purpose of using, for any commercial purpose specified in Section 7.04.145, or sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure, or electronically scanned price;

2. Use, or have in possession for the purpose of current use, for any commercial purpose specified in Section 7.04.145, a weighing or measuring instrument or device, or electronic price scanning system, that does not bear a seal or mark such as is specified in Section 7.04.165, unless it has been exempted from testing by the provisions of Section 7.04.145;

3. Dispose of any rejected or condemned weight or measure, or electronic price scanning system, in a manner contrary to law;

4. Remove from any weight or measure, or electronic price scanning system, contrary to law, any tag, seal, or mark placed thereon by the appropriate authority;

5. Sell, or offer or expose for sale, less than the quantity represented of any commodity, thing, or service;

6. Take more than the quantity represented of any commodity, thing or service when, as buyer, the person furnishes the weight or measure device by means of which the amount of the commodity, thing, or service is determined;

7. Keep for the purpose of sale, advertise, or offer or expose for sale, or sell, any commodity, thing, or service in a condition or manner contrary to law;

8. Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer;

9. Violate any provision of this code for which a specific penalty has not been prescribed.

B. Anyone convicted of a violation of this section shall upon a first conviction thereof, be

punishable by a fine of not less than Twenty Dollars ($20.00) or more than Two Hundred Dollars ($200.00), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment; and upon a second or subsequent conviction thereof, shall be punishable by a fine of not less than Fifty Dollars ($50.00) or more than Five Hundred Dollars ($500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.
(Ord. 122845, § 6, 2008; Ord. 120976 § 5, 2002; Ord. 98820 § 40, 1970.)

7.04.695 Presumptive evidence.

For the purposes of this code, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand, or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand, or vehicle.
(Ord. 98820 § 41, 1970.)

Chapter 7.08

FALSE AND MISLEADING ADVERTISING[1]

Sections:

Statutory Reference: For statutory provisions on crimes relating to false advertising, see RCW Ch. 9.04.
Severability: If any section, subsection, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this Chapter.
(Ord. 43475 § 11, 1922.)
1. Cross-reference: For provisions regarding the false advertisement or sale of meat, see Subchapter III of Chapter 10.13 of this Code.

7.08.010 Purpose of chapter--Enforcement.

This entire chapter shall be deemed an exercise of the police power of the state and of the City for the protection of the public economic and social welfare, health, peace and morals, and all its provisions shall be liberally construed for the accomplishment of that purpose. It shall be the duty of the Director of Executive Administration concurrently with the Chief of Police to enforce this chapter.
(Ord. 120794 § 187, 2002: Ord. 117169 § 121, 1994: Ord. 102618 § 1, 1973: Ord. 43475 § 1, 1922.)
Cases: This ordinance does not regulate in an area preempted by state law. Seattle v. Proctor, 183 Wn. 299, 48 P.2d 241 (1935.)

7.08.020 Definitions.

A. "Advertise," as used in this chapter, includes the making, displaying, publishing, uttering, disseminating or circulating of any announcement to the public of an offer to sell anything whatever by means of oral announcement or by radio or otherwise, or in any newspaper, periodical, magazine, pamphlet, bulletin, circular, letter, or upon any placard, poster, sign, picture or handbill, or in or by means of any other advertising medium whatsoever, whether like or unlike those enumerated in this subsection.

B. "Person," as used in this chapter, means and includes natural persons of either sex, firms, copartnerships and corporations, whether acting by themselves or by servant, agent or employee.

C. The singular number shall include the plural and the masculine pronoun shall include the feminine.
(Ord. 66400 § 1, 1936: Ord. 43475 § 2, 1922.)

7.08.030 False or deceptive advertising prohibited.

It shall be unlawful to advertise any goods, wares or merchandise, securities, service, real estate or any other thing offered by such person, directly or indirectly, to the public for sale or distribution by making or employing any assertion, representation or statement of fact which is untrue, deceptive or misleading.
(Ord. 43475 § 3, 1922.)

7.08.040 Restrictions on statements of former price.

It shall be unlawful to advertise for sale any goods, wares or merchandise, securities, service or real estate by announcing the present price of the same, or any of them, together with a statement of any former price thereof, unless such former price be the lowest at which the same were offered for sale to the public prior to their being offered at the present advertised price.
(Ord. 43475 § 4, 1922.)

7.08.050 Use of the word "value."

It shall be unlawful in advertising for sale any goods, wares or merchandise, or securities or real estate, to use in connection with the word "value," or any synonymous term, any word or figure as thus used falsely or fraudulently conveying, or intended to convey, a meaning that the thing so advertised is intrinsically worth more than, or previously sold in Seattle for a price higher than, the price so presently advertised.
(Ord. 51632 § 1(part), 1926: Ord. 43475 § 4(a), 1922.)

7.08.060 Defense to prosecution under Section 7.08.050.

A. It shall be no defense to a prosecution under Section 7.08.050 that the advertisement upon which the prosecution is based represents the opinion of the accused as to value, unless it is clearly stated in such advertisement that the representation as to value therein contained is a matter of opinion and not a statement of fact.

B. "Value" and "worth," as used in this section and Section 7.08.050, shall each respectively mean the prevailing market price at which a thing is regularly sold in Seattle.
(Ord. 51632 § 1(part), 1926: Ord. 43475 § 4(b), 1922.)

7.08.070 Secondhand goods.

It shall be unlawful for any person to advertise the sale of any merchandise which is secondhand or used merchandise, or which consists of articles or units or parts known as "seconds," or which has been rejected by the manufacturer thereof as not first class, unless there be conspicuously displayed directly in connection with the name and description of such merchandise and each specified article, unit or part thereof, a direct and unequivocal statement, phrase or word which will clearly indicate that such merchandise or such article, unit or part thereof so advertised is secondhand, used or consists of "seconds," or has been rejected by the manufacturer thereof as not first class as the fact shall be.
(Ord. 68362 § 1, 1938: Ord. 43475 § 4(c), 1922.)

7.08.080 Restrictions on use of term "values up to."

It shall be unlawful for any person in advertising any goods, wares or merchandise for sale at retail to the public, to use the term "values up to," a certain value stated in money, or to use any word or combination of words or figures of similar import, without complying with the following requirements:

A. If the goods, wares or merchandise have prior to such advertising been offered for sale to the public at retail, the person so advertising the same shall specifically state as a part of his advertisement:

1. The lowest price at which each class of the goods, wares or merchandise was so formerly offered for sale; and

2. In each class the name or description and number of articles being advertised for sale. "Class," as used in this subsection A has reference to price, each class to consist of all articles of the same kind formerly offered for sale at the same price.

B. If any of the goods, wares or merchandise have not prior to such advertising been offered to the public for sale at retail, the person so advertising the same shall, as a part of his advertisement, state that such goods, wares or merchandise have never been previously offered for sale to the public at retail.
(Ord. 66400 § 2, 1936: Ord. 43475 § 5, 1922.)
Cases: It is arbitrary, unreasonable and therefore invalid to require an advertisement for the sale of any lot of miscellaneous goods with values "up to" a certain price to state the name and number of such goods and the lowest price at which each of such articles was offered for sale prior to the advertisement. Seattle v. Proctor, 183 Wn. 293, 48 P.2d 238 (1935).

7.08.090 Advertiser to be dealer.

It shall be unlawful for any person engaged in the business of selling goods, wares or merchandise, securities, service or real estate to advertise the sale of the same unless it shall be stated in the advertisement of such sale, clearly and unequivocally, that the person advertising such sale of goods, wares or merchandise, securities, service or real estate is a dealer in the same; provided, however, that the advertisement of the sale of any goods, wares or merchandise, securities, service or real estate, in such form as to make it plainly apparent therefrom that the person so advertising is actually engaged in the business of selling such goods, wares, or merchandise, securities, service or real estate as a business, shall be deemed a sufficient compliance with the terms of this chapter.
(Ord. 43475 § 6, 1922.)1

1. Editor's Note: Ord. 51632 purportedly added a § 6a to Ord. 43475, but that addition did not appear in the text of the ordinance.

7.08.100 Violation--Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding Three Hundred Dollars ($300.00), or by imprisonment in the City Jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment.
(Ord. 66400 § 3, 1936: Ord. 43475 § 7, 1922.)

7.08.110 Violation--Designation of principal.

Every person concerned in any act or omission in violation of this chapter, whether he directly performs or omits to perform any act in violation of this chapter, or aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit such violation is, and shall be, a principal under the terms of this chapter, and shall be proceeded against and prosecuted as such.
(Ord. 43475 § 8, 1922.)

7.08.120 Chapter not applicable to printers, publishers or their agents.

None of the provisions of this chapter shall apply to any person engaged in commercial printing or to any person engaged in publishing any newspaper or periodical, or to any person engaged in the operation of a radio station, or to any agent of any such persons who prepare or publish any of the advertising mentioned in this chapter for other persons in good faith and without knowledge of the falsity or deceptive character thereof.
(Ord. 66400 § 4, 1936: Ord. 43475 § 9, 1922.)

Chapter 7.12

DISCLOSURE OF UNIT PRICES

Sections:

Severability: The invalidity of any section, subsection, provision, clause, or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.
(Ord. 100708 § 12, 1972.)

7.12.010 Definitions.

As used in this chapter, unless the context indicates otherwise:

A. "City Sealer" means The City of Seattle Sealer of Weights and Measures or his authorized agent.

B. "Consumer" means any person who purchases consumer commodities at retail.

C. "Consumer commodity" means any article, product, or commodity of any kind or class produced or distributed for retail sale, for consumption by individuals or for use by individuals for purposes of personal care, or in the performance of personal care, or in the performance of services rendered within the household, and which is used or expended in the course of such consumption.

D. "Convenience store" means any grocery store or grocery department which as a regular business practice displays or offers for sale at the same time only one (1) brand and one (1) package size for at least ninety percent (90%) of the consumer commodities which are offered for sale at such store or department and which are designated in Section 7.12.030.

E. "Gourmet or exotic food" means a consumer commodity which is not commonly or widely used, is the sole item of the type sold, or has such special, distinct, unusual, or unique features, that price is of minor consideration to the purchaser.

F. "Grocery store" or "grocery department" means any retail establishment or department thereof, selling food and food-related consumer commodities, the gross receipts from which constitute more than fifty percent (50%) of its business.

G. "Seller" means any person, by himself, or by his servant or agent, or as the servant or agent of another, who sells consumer commodities at retail at a grocery store or grocery department.

H. "Unit price" means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of net weight, standard measure, or standard number of units as provided in this chapter.
(Ord. 121861 § 1, 2005; Ord. 105538 § 1, 1976: Ord 100960 § 1, 1972: Ord. 100708 § 1, 1972.)

7.12.020 Unit pricing required in grocery stores and grocery departments.

It is unlawful for any grocery store, grocery department, or seller therein, who or which sells, offers for sale, or displays for sale consumer commodities designated in Section 7.12.030 to fail to disclose to the consumer the appropriate unit price for such commodities as provided by this chapter. The price disclosed shall be the price at which the consumer commodity is being sold at the time of purchase, and shall be referred to in any advertising or other display as the unit price.
(Ord. 121861 § 2, 2005; Ord. 108106 § 1, 1979: Ord. 100708 § 2, 1972.)

7.12.030 Commodities to be unit priced.

The following groups of consumer commodities as defined in this chapter shall be unit priced as provided in this chapter in the appropriate terms for unit pricing established by the City Sealer in accordance herewith:

A. All packaged consumer commodities that are meant for consumption as food by individuals;

B. Pet food, pet litter and pet bedding;

C. Paper based household products and other food wrappings or bags of any composition; and

D. Laundry and cleaning products.

(Ord. 121861 § 3, 2005; Ord. 100960 § 2, 1972: Ord. 100708 § 3, 1972.)

7.12.040 Terms for unit pricing.

A. For consumer commodities required to be unit priced, the appropriate terms for unit pricing shall be the same for all package sizes in which like commodities are sold or offered for sale, consistent with the following:

1. Price per kilogram or one hundred (100) grams, or price per pound or ounce, if the net quantity of contents of the commodity is in terms of weight.

2. Price per liter or one hundred (100) milliliters, or price per dry quart or dry pint, if the net quantity of contents of the commodity is in terms of dry measure or volume.

3. Price per liter or one hundred (100) milliliters, or price per gallon, quart, pint, or fluid ounce, if the net quantity of contents of the commodity is in terms of liquid volume.

4. Price per individual unit or multiple units if the net quantity of contents of the commodity is in terms of count.

5. Price per square meter, square decimeter, or square centimeter, or price per square yard, square foot, or square inch, if the net quantity of contents of the commodity is in terms of area.

B. If the net contents of different brands and/or package sizes of a consumer commodity are expressed in more than one unit of measure, the retail establishment shall use only one term for unit pricing all items of the consumer commodity.

C. When metric units appear on the consumer commodity in addition to other units of measure, the retail establishment may include both units of measure on any stamps, tags, labels, signs or lists.

D. Commodities shall be exempt from unit pricing requirements when:

1. Packaged in quantities of less than twenty-eight (28) grams (one (1) ounce) or twenty-nine (29) milliliters (one (1) fluid ounce), or when the total retail price is Fifty Cents ($.50) or less;

2. Only one brand in one package size is offered for sale in a particular retail establishment;

3. Selling infant formula, in which case the unit price may be based on the reconstituted volume.

"Infant formula" means a food that is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or suitability as a complete or partial substitute for human milk;

4. Determined by the City Sealer to be a gourmet or exotic food as defined in this chapter; or

5. Determined by the City Sealer to be a Combination or Variety Package as defined in SMC Sections 7.04.305 and 7.04.310, respectively, as such sections may be amended from time to time, or any successor to those sections.

(Ord. 121861 § 4, 2005; Ord. 108996 § 1, 1980: Ord. 100708 § 4, 1972.)

7.12.050 Computation of unit price.

A. The unit price shall be stated to the nearest cent when the unit price is One Dollar ($1.00) or more.

B. When the unit price is less than One Dollar ($1.00), it shall be stated either to the tenth of one cent or to the whole cent, but not both. The retail establishment shall use the same method of rounding up or down when computing the unit price.

(Ord. 121861 § 5, 2005; Ord. 100708 § 5, 1972.)

7.12.060 Information tag or sign.

A. Unit prices shall be in English and, at the option of the seller, any additional languages used by the patrons of the retail establishment.

B. All unit prices shall be displayed clearly and conspicuously at the point of the product display in the following manner:

1. By attachment of a stamp, tag, sign, or label to the shelf on which the commodity is displayed and directly adjacent to the point of display; or

2. If no shelf is available for conspicuous display of the unit price, by attachment of a stamp, tag, sign, or label at the closest available location to the commodity; or

3. By attachment of a stamp, tag, sign, or label directly to each commodity; or

4. By attachment of a stamp, tag, sign, or label in accord with regulations of the City Sealer consistent with this chapter.

C. The stamp, tag, sign, or label used to display the unit price shall contain at least the following information: brand name, total price of the commodity, unit price, and quantity or size of the product by weight, measure or count.

(Ord. 100708 § 6, 1972.)

7.12.070 Unit pricing of sale items.

All consumer commodities required to be unit priced shall be properly unit priced as provided in this chapter at all times during which such consumer commodities are offered for sale; provided, that during such times as any such commodity is offered for sale at a "special" or "sale" price which is lower than the regularly advertised price, such commodities need not be unit priced in accordance with such "special" or "sale" price in the following circumstances:

A. Such sale or special price is not in effect for more than twenty-one (21) consecutive days;

B. The stamp, tag, sign, or label stating the regular unit price is affixed as provided in this chapter; and

C. Such sale or special price is offered pursuant to a bona fide sale or special and not for the purpose of avoiding the requirements of this chapter.
(Ord. 100708 § 7, 1972.)

7.12.080 Exemptions from chapter provisions.

A. This chapter shall not apply to any grocery store(s) or grocery department(s) which:

1. Comprise a single ownership wherein gross receipts are less than One Million Two Hundred Fifty Thousand Dollars ($1,250,000.00) per year; or

2. Receives more than thirty percent (30%) of its gross receipts from the sale of imported foods or food-related commodities; or

3. Is a convenience store as defined in this chapter.

B. For purposes of this section, grocery stores or grocery departments owned or controlled by different persons, partnerships, corporations, or other organizations, but associated together for the purpose of sharing a trade name or advertising expenses only, shall be considered as separate establishments.
(Ord. 107092 § 1, 1978: Ord. 105538 § 2, 1976: Ord. 100708 § 8, 1972.)

7.12.090 Enforcement--Stop orders--Hearing requests.

A. The City Sealer shall enforce the provisions of this chapter, and he may establish rules and regulations consistent with this chapter for the purpose of enforcing and carrying out the provisions thereof.

B. The City Sealer shall have power to issue stop-sale orders, stop-removal orders, and removal orders with respect to packages or amounts of consumer commodities kept, offered, sold, or exposed for sale in violation of this chapter. Such an order shall take effect immediately upon issuance by the City Sealer and shall continue in effect until withdrawn or modified by the City Sealer, or, in the event a hearing shall be requested as provided in this chapter, until withdrawn or modified by the Hearing Examiner. The grocery store or grocery department affected by a stop-sale, stop-removal or removal order may request a hearing thereon by filing a written request for a hearing with the City Sealer within forty-eight (48) hours, excluding Saturdays, Sundays and holidays, after the issuance of such order. A copy of such request shall forthwith be delivered to the

Hearing Examiner who shall give notice and conduct such hearing in accordance with procedures established by the Administrative Code of the City (Ordinance 102228).[1] After such hearing, the final decision as to such order shall be made by the Hearing Examiner, who shall sustain, modify or withdraw such order based on findings as to whether there has been compliance with this chapter; provided, the decision of the Hearing Examiner shall be rendered no later than ten (10) days after the date of the hearing. If the order is sustained or modified, the City Sealer shall cause a copy of the order to be personally delivered to the affected grocery store or grocery department. Whenever the City Sealer issues an order pursuant to this section the order shall include notice of the hearing rights of the affected grocery store or grocery department granted in this chapter.

C. It is unlawful for any person to sell, remove from the premises specified, or fail to remove from the premises specified any consumer commodity contrary to the terms of a stop-sale order, a stop-removal order, or a removal order issued under the authority of this section.
(Ord. 104313 § 1, 1975: Ord. 100708 § 9, 1972.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

7.12.100 Police powers of City Sealer.

With respect to the enforcement of this chapter, the City Sealer is vested with the powers of a special policeman, and is authorized to arrest any violator of this chapter and to seize for use as evidence any incorrect unit price stamp, tag, sign or label or any consumer commodity offered or exposed for sale or sold in violation of this chapter; provided, that an arrest shall be made for a violation of a stop-removal, stop-sale or removal order only if such a violation continues after a request for a hearing has not been filed within forty-eight (48) hours pursuant to Section 7.12.090, or after a decision of the Hearing Examiner has been rendered pursuant to Section 7.12.090. It is unlawful for any person to hinder or obstruct in any way the City Sealer in the performance of his official duties.
(Ord. 100708 § 10, 1972.)

7.12.110 Violation--Penalty.

Any person convicted of a violation of this chapter shall be punishable by a fine not to exceed Five Hundred Dollars ($500.00), or by imprisonment in the City Jail for not more than six (6) months, or by both such fine and imprisonment.
(Ord. 100708 § 11, 1972.)

Chapter 7.20

FLOATING HOME MOORAGES

Sections:

7.20.120 Voluntary waiver of provisions.
7.20.125 City license and permit
7.20.130 Notices.
7.20.140 Continuation of former provisions.
7.20.150 Violation--Penalty--Additional Remedies.

Severability. The provisions of this chapter are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, phrase, or portion of this chapter, or of any section, subsection or portion thereof, shall not affect the validity of the remainder of this chapter or the validity of its application, or of the application of any other section, subsection, phrase, or portion hereof, to any persons or circumstances.
(Ord. 115390 § 7, 1990: Ord. 111526 § 14, 1984.)

7.20.020 Purpose.

The purpose of the ordinance codified in this chapter is to prevent harm to the public by protecting the stability, viability, and fiscal integrity of Seattle's unique floating home communities by preventing the eviction of floating homes from their moorages through arbitrary actions and unreasonable rent increases, and by discouraging the eviction and destruction of valuable and habitable floating homes by enhancing opportunities for floating home owners to purchase their moorages, while preserving to moorage owners the fundamental attributes of ownership.
(Ord. 115390 § 1, 1990.)

7.20.030 Definitions.

The following terms used in this chapter shall have the meanings set forth below:

A. "Consumer Price Index" means the Consumer Price Index for all urban consumers (CPI-U) for the Seattle-Everett area, as compiled by the United States Department of Labor, Bureau of Labor Statistics.

B. "Floating home" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is moored, anchored or otherwise secured in waters within the City limits.

C. "Floating home moorage," or "moorage" means a waterfront facility for the moorage of one (1) or more floating homes, and the land and water premises on which such facility is located.

D. "Floating home moorage owner," or "moorage owner" means any person or group who owns in fee or who has a leasehold interest in an entire floating home moorage facility.

E. "Hearing examiner" means the Office of Hearing Examiner as established by Ordinance No. 102228.1

F. "Moorage fee" means the periodic payment for the use of a floating home moorage site.

G. "Moorage site" means a part of a floating home moorage, located over water, and designed to accommodate one (1) floating home.

H. "Sale" means the transfer from one (1) person or entity to another person or entity of title and right to possession of a floating home moorage or moorage site by appropriate instrument of conveyance for consideration in money or property payable within a time certain, except for transfers of interests among or between joint tenants and tenants-in-common, and for transfers of interest in community property between

members of a marital community.
(Ord. 115390 § 2, 1990: Ord. 111526 § 2, 1984.)
1. Editor's Note: Ord. 102228 is codified at Chapter 3.02 of this Code.

7.20.040 Lawful reasons for giving notice to remove floating home.

It is unlawful for a floating home moorage owner or operator to give notice to a floating home owner to remove his or her floating home from its moorage site, or to attempt to evict or complete the eviction of a floating home from its moorage site even though notice to remove such floating home from its moorage site was given to the owner of such floating home prior to the effective date of the ordinance codified in this chapter, except for the following reasons:

A. The floating home owner fails to pay the moorage fee which he or she is legally obligated to pay;

B. The floating home owner refuses or otherwise fails to comply with reasonable written terms or conditions of tenancy, other than the obligation to surrender possession of the floating home moorage site, after service of a written notice to comply or vacate as provided by RCW 59.12.030(4). Reasonable terms and conditions do not include terms and conditions that require owners to substantially change or remodel existing floating homes unless substantial change or remodeling is needed to bring the floating home into compliance with legally applicable building, health, and safety codes or to abate a nuisance. Moorage owners may require written acknowledgment by floating home owners of such terms and conditions. Such acknowledgment shall not constitute approval of or agreement by the floating home owner with such terms and conditions, nor shall it constitute an acknowledgement by the floating home owner that such terms or conditions are reasonable or the same as those required of similarly situated floating homes. Except for moorage fees, similarly situated floating homes within a floating home moorage shall be subject to the same moorage terms and conditions. Floating home owners shall be given thirty (30) days' written notice in advance of any new term or condition. No floating home owner shall be evicted for failure to comply with a term or condition not uniformly applied, unless the floating home owner has specifically agreed to the term or condition in writing;

C. The floating home owner repeatedly violates the same term or condition of tenancy and has received three (3) or more notices to comply or vacate, as provided in subsection B, for the same violation in a twelve (12) month period;

D. The floating home owner, after receiving written notice of objection from the floating home moorage owner or operator, fails to abate a nuisance on such person's floating home, or causes substantial damage to the floating home moorage, property, or substantially interferes with the comfort, safety or enjoyment of other floating home owners at the floating home moorage;

E. The floating home moorage owner or operator elects to change the use of the moorage site to a permitted commercial use other than a floating home moorage and gives at least six (6) months' advance written notice to the owner of the floating home moored at the site to vacate the site; provided, that: (1) such demand for removal is not contrary to any existing valid agreement between the moorage owner or operator and the floating home owner; and (2) the moorage owner or operator, prior to eviction, manifests the determination to change the use of the property to a use other than that of a floating home moorage site by obtaining all permits which are necessary to change the use to which the property is devoted, including but not limited to any shoreline substantial development permits and building permits which may be required, and by taking one (1) or more of the following actions:

a. Entering into one (1) or more contracts or leases with new tenants or users for the new use of the property,

b. Obtaining financing for the purpose of paying all or a substantial portion of the cost of converting the property to the new use,

c. Taking any other action which reasonably demonstrates that the moorage site will in fact be converted to the new use;

F. The floating home moorage owner or operator elects to use the moorage site as the moorage for a floating home to be rented or sold to others by the moorage owner or operator, and gives at least six (6) months' advance written notice to the owner of the floating home moored at the site to vacate the site; provided, that: (1) such demand for removal is not contrary to any existing valid agreement between the moorage owner or operator and the floating home owner; (2) the floating home which is to be evicted is not regularly occupied by its owner as his or her primary place of residence for at least ninety (90) days immediately prior to the date that the site is to be vacated; and (3) the moorage owner or operator, prior to eviction, manifests the determination to use the moorage site as the moorage for a floating home to be rented or sold by him or her to others by obtaining all permits which are necessary to move a floating home to the site or construct one at the site, and by taking one (1) or more of the following actions:

a. Acquiring or constructing a rental floating home for use at the site, or designating for rental use at the site a floating home already owned by him or her,

b. Obtaining financing from a lending institution or from other sources to pay all or a substantial portion of the cost of construction,

c. Taking any other action which reasonably demonstrates that the moorage site will in fact be used as the moorage for a floating home to be rented or sold by him or her to others;

A floating home shall be deemed regularly occupied by its owner within the meaning of this subsection notwithstanding temporary absences not to exceed twenty-four (24) months in any five (5) year period, if the conduct of the floating home owner is at all times consistent with the intention to continue maintaining the floating home as his or her primary place of residence; or

G. The floating home moorage owner elects to use the moorage site as the moorage for a floating home to be occupied as his or her personal residence, and gives at least six (6) months' advance written notice to the owner of the floating home moored at the site to vacate the site, provided that: (1) such demand for removal is not contrary to any existing valid agreement between the moorage owner or operator and such floating home owner; and (2) the moorage owner prior to eviction, manifests the determination to use the moorage site for the stated purpose by obtaining all applicable permits required by law and by taking one (1) or more of the following actions:

a. Acquiring a floating home for use at the site, or designating for use at the site a floating home already owned by him or her,

b. Obtaining financing for the purpose of paying all or a substantial portion of the cost of construction,

c. Taking any other action which reasonably demonstrates that the moorage site will in fact be used for the stated purpose.

H. The floating home moorage owner or operator elects to convert the entire moorage facility to a noncommercial use and gives at least six (6) months' advance written notice to the owners of the floating homes moored at the facility to vacate their moorage sites; provided that: (1) such demand for removal is not contrary to any existing valid agreement between the moorage owner or operator and any such floating home owner; and (2) the moorage owner or operator, prior to eviction, manifests the determination to use the moorage site for the stated noncommercial use by:

a. Obtaining all permits required by law for the proposed use, and

b. Filing with the City Director of Planning and Development a sworn statement explaining the nature of the proposed noncommercial use. For the purpose of this subsection "noncommercial use" means any use, other than one provided for in subsection G of this section, which is neither directly nor indirectly remunerative, and which does not involve the use of the moorage in connection with any business, whether such use is compensated or not.

(Ord. 121276 § 37, 2003; Ord. 115390 § 3, 1990: Ord. 111526 § 3, 1984.)

Cases: Provision of houseboat ordinance allowing moorage owner to evict tenant and to personally occupy the moorage site as a residence only after locating for the displaced tenant another lawful moorage site within the City was unconstitutional as a deprivation of property without just compensation. Kennedy v. City of Seattle, 94 Wn.2d 376, 617 P.2d 713 (1980).

Section of City houseboat ordinance governing eviction of floating home tenants, requiring that moorage owner locate another moorage site within the City for the evicted floating home owner, was unconstitutional as a deprivation of property without just compensation. Gronat v. Keasler, 99 Wn.2d 564, 663 P.2d 830 (1983).

An unlawful detainer action may be brought after the moorage owner has substantially complied with the notice provisions of this section. Kennedy v. McGuire, 38 Wn.App. 237, 684 P.2d 1359 (1984).

City houseboat ordinance allowing moorage owner to evict houseboat owner only for the purpose of changing the use of the entire moorage owner's personal residence, and in the latter case requiring him to either locate another moorage site for the houseboat owner or pay him fair market value for the property, was unconstitutional as a deprivation of property without just compensation. Lee v. Savage, 38 Wn.App. 699, 689 P.2d 404 (1984).

7.20.050 Six-month notice to remove.

A moorage owner seeking the eviction of a floating home for any reason other than those specified in Section 7.20.040 A, B, C and D shall give the floating home owner written notice at least six (6) months prior to the demanded date of removal of the floating home, and shall state in the notice the reason for the intended eviction.

(Ord. 111526 § 4, 1984.)

7.20.060 Notice under color of law.

Any notice to vacate a floating home moorage site issued under color of Section 7.20.040 E, F, G or H, but issued in bad faith and not for the purpose expressed, shall be null and void and the issuer thereof shall be subject to the remedies and sanctions provided in Section 7.20.150.

(Ord. 111526 § 5, 1984.)

7.20.070 Reprisal or retaliation actions against floating home owners.

A. The owner or operator of a floating home moorage shall not take or threaten to take reprisals or retaliatory action against a floating home owner because of any good faith exercise of such floating home owner's legal rights in relation to his or her floating home.

B. "Reprisal or retaliatory action" within the meaning of this section shall mean and include but not be limited to any of the following actions by the floating home moorage owner or operator when such actions are initiated primarily because of the floating home owner's assertion or enforcement of rights or remedies provided by this chapter or any other applicable ordinance, statute, regulation or rule of law: (1) demanding removal of the floating home from its moorage site; (2) increasing the moorage fee required of the floating home owner; (3) reducing services to the floating home owner; (4) increasing the obligations of the floating home owner; and (5) otherwise interfering with the quiet enjoyment of the floating home.
(Ord. 111526 § 6, 1984.)

7.20.080 Moorage fee increases--Hearing.

A. A moorage owner seeking a moorage fee increase shall give the floating home owners affected thereby a written notice, at least thirty (30) days before the increase will go into effect, stating the amount of the increase, financial computations demonstrating the need for the increase, and the effective date of the increase. If the proposed moorage fee increase is to be based, in whole or in part, on a cost basis established by a sale, lease or other transaction concerning the moorage property or facilities, then the notice shall include identification of the parties to the transaction, all material terms of the transaction and an explanation as to whether and how the transaction resulted in a genuine change in control of the property or facilities so as to justify the use of a new cost basis.

B. If at least one-half (1/2) of the floating home moorage site lessees in a floating home moorage, excluding the moorage owner and those who have an ownership interest in the moorage, who are subject to a moorage fee increase in the same percentage amount (plus or minus one percentage point (1%) believe that the demanded fee increase is unreasonable, they may collectively file a petition for review with the Hearing Examiner. The petition shall be in the form of a sworn statement which shall: (1) be signed by each petitioning moorage site lessee; (2) list separately the name and floating home address of each such moorage site lessee; and (3) include a statement of the intention of each moorage site lessee to contest the proposed moorage fee increase. In determining whether at least half of those affected have petitioned only one signature per moorage site will be counted. The petition shall be filed within fifteen (15) days of receipt of written notification of the moorage fee increase. The person or persons filing a petition for review shall pay a filing fee of Twenty five Dollars ($25.00) per petitioner, with a maximum fee of Seventy-five Dollars ($75.00), to the City Director of Executive Administration, which fee shall be refunded if no hearing is required. The Hearing Examiner may consolidate the petitions contesting moorage fee increases at the same moorage.

C. The Hearing Examiner's review shall to the extent possible be based upon written memoranda, sworn statements, and affidavits submitted by the parties. The moorage owner shall, as soon after the filing of the petition as practicable, file with the Hearing Examiner and serve upon the petitioning floating home moorage site lessees or their representative, a memorandum and any necessary affidavits or sworn statements in

support of the proposed increase. The floating home moorage site lessees shall submit a responsive memorandum and affidavits within fifteen (15) days of receipt of the moorage owners' submission. The Hearing Examiner shall review the memoranda, affidavits, and sworn statements and advise the parties in writing of: (1) the legal and factual issues to be resolved; (2) the time and place for the hearing; and (3) the length of time that each party will have to present his or her case. In connection with such review the Hearing Examiner may require any party to the proceedings to provide any information needed to determine whether the demanded moorage fee increase is reasonable. Either party's failure to provide information requested by the Hearing Examiner may, at the Hearing Examiner's discretion, result in a finding or findings against the party refusing to provide the information as regards facts that could be proved or disproved by the requested information.

D. 1. The Hearing Examiner shall find whether that portion of the proposed moorage fee increase which is in excess of that permitted in Section 7.20.090, or an increase in a lesser amount, or no increase in excess of that permitted in Section 7.20.090, is necessary to assure a fair and reasonable return to the moorage owner and shall order such increase as is found necessary to assure a fair and reasonable return. In making the determination, the Hearing Examiner, in addition to any other factors deemed relevant, shall consider the following factors: (a) the purchase or lease price of the moorage and the terms of any transaction relied upon to establish the cost basis for the moorage; (b) increases or decreases since the last moorage fee increase in the expenses of operation and maintenance of the floating home moorage; provided, that such expenses are for services, repairs, property maintenance, or any other expenses which are reasonable and necessary for the continued operation of a floating home moorage; (c) the reasonable costs of capital improvements since the last moorage fee increase to the floating home moorage property which benefit the floating home owners occupying moorage sites at the floating home moorage; (d) increases or decreases since the last moorage fee increase in necessary or desirable services furnished by the floating home moorage owner or operator, where such increased or decreased services affect the person or persons initiating the fact-finding proceedings; (e) substantial deterioration since the last moorage fee increase in the facilities provided for the occupants of moorage sites at such floating home moorage due to failure of the moorage owner or operator to perform ordinary repairs, replacement and maintenance of the floating home moorage property and improvements; (f) comparability with moorage fees charges for other floating home moorage sites in the City; and (g) a reasonable return on leased land.

2. Whenever the sale or lease price of a moorage or the terms of any transaction concerning the moorage are cited as a factor in demonstrating that a rent increase or any part thereof is necessary to assure a fair and reasonable return to the owner, the Examiner will allow sufficient time for discovery as appropriate under applicable Hearing Examiner Rules. The Hearing Examiner may rely on this factor as supporting a rent increase or any part thereof only if the moorage owner demonstrates at hearing that the sale or other transaction relied upon resulted in a genuine change in control of the moorage sufficient to justify a new cost basis for the moorage.

E. No contested moorage fee increase shall take effect until approved by the Hearing Examiner's written decision; provided that the moorage owner or operator may recover retroactively from the date of the notice of the increase, with interest at the prevailing rate for United States Treasury bills on the date of the decision, such increases as are found reasonable by the Hearing Examiner. It shall be unlawful for a moorage owner or operator to demand, charge, or collect any moorage fee in excess of the amount approved by the Hearing Examiner for a period of one (1) year from the effective date of any permitted fee increase, unless the moorage owner can show either that extraordinary damage to the moorage occurring after the decision has

necessitated cost increases which make it impossible to realize a reasonable return without a fee increase, or that the floating home owner has rented the floating home to another at a profit; provided, that moorage owners may increase fees in the amount of any increases in state lease or City license fees whenever such increases are incurred, and may increase fees for the purpose of recovering the costs of capital improvements authorized by Section 7.20.090 whenever such improvements are required. Any fee increase necessitated by extraordinary damage shall be subject to Hearing Examiner review whenever such review is requested by at least one-half (1/2) of the floating home moorage site lessees affected, any other provision in this chapter to the contrary notwithstanding.

(Ord. 121468 § 1, 2004; Ord. 120794 § 188, 2002; Ord. 116368 § 202, 1992; Ord. 111526 § 7, 1984.)

Cases: Rent control provisions of houseboat ordinance did not exceed City's police power. Kennedy v. City of Seattle, 94 Wn.2d 376, 617 P.2d 713 (1980).

Fact-finder's decision that increase in moorage fee was unreasonable was not binding on the parties. Jeffery v. Weintraub, 32 Wn.App. 536, 648 P.2d 914 (1982).

City ordinance regulating moorage fee increases for houseboat owners, which applied different standards to moorage owners leasing from the state or using an adjacent street and moorage owners who either owned their land or leased it from private parties, did not violate equal protection and did not deprive owners of their property without due process of law or just compensation. Jeffery v. McCullough, 97 Wn.2d 893, 652 P.2d 9 (1982).

7.20.090 Moorage fee increase--Limit without fact-finding.

A. Moorage owners or operators shall be permitted to increase the moorage fee demanded of a floating home owner without fact-finding in an amount not exceeding: (1) the CPI factor; (2) the floating home owner's proportional share of increased state land lease fees and City street use or other permit fees incurred by the moorage owner which benefit floating home owners and result in increased operating expenses; and (3) the floating home owner's proportional share of reasonable costs to be incurred to replace substandard or defective bulkheads, floats, piling, piers and utility services; provided, that the costs of such improvements shall be recovered evenly over a period of not less than five (5) years, and such increases shall be for no longer than is reasonably required to recover the cost of such improvements, including one-half (1/2) of the interest on any loans to be incurred by the moorage owner to pay for the improvements. When the costs of such improvements are recovered, the moorage fee shall be reduced accordingly. Moorage fee increases attributable to the cost increases listed above may not be assessed until actually incurred. Before assessing any fee increase, moorage owners shall provide floating home owners notice of the proposed increase which shall explain the specific reasons for the increase and the apportionment formula used. When an increase is necessitated by the cost of an improvement described in subsection A3 of this section, the notice shall include a detailed description of the improvement and its useful life, and shall state the anticipated amount of the monthly increase in the floating home owner's moorage fee and the number of months that the increase will remain in effect. Within fifteen (15) days of receiving a notice of a proposed fee increase for improvements to be made pursuant to this section, the affected floating home moorage site lessees may petition the Hearing Examiner for review of the proposed increase. The petition must be signed by at least fifty percent (50%) of the floating home moorage site lessees affected by the increase and shall satisfy the petition requirements described in Section 7.20.080 B. The hearing shall be conducted pursuant to the procedure described in Section 7.20.080 B and C. The Hearing Examiner shall determine whether the capital improvements costs are reasonable and whether the monthly fee increases and/or amortization periods are reasonable. When the actual cost of an improvement exceeds the anticipated cost of the improvement, the moorage owner may, with the approval of fifty per cent (50%) of the affected floating home owners, increase moorage fees in an amount greater than previously approved or agreed upon, or the moorage owner may, after completion of the improvement, petition the Hearing Examiner for permission to increase fees to recover actual expenses. Any hearing requested shall be conducted pursuant to Section 7.20.080 C.

B. The CPI factor for a floating home moorage shall be determined by multiplying the percentage increase in the CPI since the last moorage fee increase by the current moorage fee, excluding from the fee any amounts assessed pursuant to subsections A2 and A3 of this section, and by multiplying the product thereof by a fraction, the numerator of which shall be the number of square feet of land at the subject moorage owned by the moorage owner or leased from a private, nongovernmental owner and the denominator of which shall be the total number of square feet of land in the moorage (privately owned or leased land plus land leased from or licensed by any governmental entity).
(Ord. 111526 § 8, 1984.)

7.20.100 Moorage fee increase--Offer to moorage owner.

No later than seven (7) days after submitting a petition for review pursuant to Section 7.20.080, each petitioning floating home owner shall, individually or as a group, submit to the moorage owner a written offer stating the amount of increase in the moorage fee that the floating home owner or owners believe to be reasonable. The moorage owner shall, within five (5) days of receiving the offer, accept or reject it in writing or make a counter offer. Within three (3) days of receiving the counter offer the floating home owner shall deliver to the moorage owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner. The envelope containing the photographic copy shall be clearly marked "Final Offer of Floating Home Owner" and shall indicate the name of the person or persons submitting the offer. Within three (3) days of receiving the floating home owner's final offer the moorage owner shall deliver to the floating home owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner in an envelope clearly marked "Final Offer of Moorage Owner" and shall indicate the name of the person or persons submitting the offer. Any party who fails to submit a final offer in a timely fashion shall not be entitled to an award of attorney's fees. The Hearing Examiner shall not open the envelopes until after the written review decision has been mailed to the parties. After mailing the decision, the Hearing Examiner shall examine the offers and shall assess reasonable attorney fees: (1) against the moorage owner or operator if the moorage fee increase permitted is equal to or less than the floating home owner's offer, or (2) against the floating home owner(s) if the permitted increase is equal to or greater than the moorage owner's offer. In all other cases each party shall bear his or her own attorney fees. The award of attorney fees shall be made in a separate decision by the Hearing Examiner. Any party who fails to pay assessed attorney fees within sixty (60) days of the Hearing Examiner's decision shall be subject to the enforcement penalties provided in Section 7.20.150.
(Ord. 111526 § 9, 1984.)

7.20.110 Moorage fee for rented houseboats.

The moorage fee for a floating home rented by its owner to another shall be one-half (1/2) of that portion of any profit obtained through such rental plus the moorage fee otherwise permitted for owner-occupied floating homes under Sections 7.20.080 and 7.20.090 of this chapter. Profit shall be the rental received by the floating-home owner less the floating-home owner's actual expenses, including but not limited to, the moorage fee otherwise permitted, utilities, maintenance, reasonable depreciation on investment, and one-half (1/2) of any interest payments. In the event of disagreement between the floating-home owner and the moorage owner as to the correct moorage fee for a site occupied by a rented houseboat then either party may apply to the Hearing Examiner for a review of the fee, and the review shall be conducted pursuant to the procedure described in Section 7.20.080 of this chapter. At all times when a floating home is rented by its owner to

another, the moorage owner shall be provided a written statement of the rental rate charged the tenant by the floating-home owner, which statement shall be executed by both the floating-home owner and the tenant. The moorage owner thereafter shall be provided a copy of any rental fee increase notices given the tenant, or oral notice of such increases if written notice to the tenant is not provided. Should a floating-home owner fail to provide timely notice to the moorage owner of a rental increase, or knowingly misrepresent the amount of rent charged, the floating-home owner shall pay to the moorage owner, as an additional moorage fee, a sum equal to twice the amount of any rental increase received by the floating-home owner from the tenant from the date of the increase until the date that notice was given. When a floating-home owner occupies or reoccupies a floating home which has been rented, or when a renter of a floating home becomes its owner through purchase or otherwise, the moorage fee shall, as of the date of such occupancy or purchase, be set at the rate established for other comparably situated owner-occupied floating homes at the same moorage site, consistent with Sections 7.20.080 and 7.20.090 of this chapter.
(Ord. 112810 § 1, 1986: Ord. 111526 § 10, 1984.)

7.20.120 Voluntary waiver of provisions.

The provisions of this chapter may be waived by moorage owners and floating home owners provided that such waiver is done voluntarily and with knowledge of the waiver in a written lease and provided further that such waiver shall be valid for no longer than the term of the lease.
(Ord. 111526 § 11, 1984.)

7.20.125 City license and permit preconditions and limitations.

No floating home moorage owner or floating home owner may apply for, rely upon, use, or obtain the benefit of any City license, permit, or other approval (including but not limited to, building permits, land use permits, subdivision approvals, shoreline substantial development permits) submitted or issued in violation of the terms and requirements of Seattle Municipal Code Chapter 7.20.
(Ord. 121407 § 2, 2004; Ord. 115390 § 5, 1990.)

7.20.130 Notices.

A. It is unlawful to sell, lease or rent a floating home or moorage facility without advising the prospective purchaser, lessee, or renter, in writing of the existence of this chapter, and it is unlawful to fail to provide the owner or operator of a floating home moorage with written notice of a proposed change in occupancy, sale, or rental of a floating home located at the moorage at least fifteen (15) days in advance of the proposed change in occupancy.

B. It is unlawful for a moorage owner to fail to notify each floating home moorage site lessee at that moorage that the moorage is being offered for sale. This notification shall be in writing and shall be provided at least ninety (90) days but not more than one year prior to the date the moorage owner takes any action to offer the moorage for sale. Actions triggering the notice requirement of this subsection include, but are not limited to, entering into a listing agreement with respect to the moorage or advertising the moorage for sale in any public forum.

C. It is unlawful for a new moorage owner to fail to give, within seven (7) days of a change in ownership of the moorage, notice to each floating home moorage site lessee of the change of ownership and

address and telephone number of the new moorage owner.
(Ord. 121468 § 2, 2004; Ord. 111526 § 12, 1984.)

7.20.140 Continuation of former provisions.

The City Council hereby declares its intention that the provisions of this chapter shall be construed and applied as a continuation of the provisions of Ordinance 109280, as amended, insofar as applicable, and the repeal of the said ordinance by this ordinance shall not be construed as affecting such continuous application.
(Ord. 111526 § 13, 1984.)

7.20.150 Violation--Penalty--Additional Remedies.

A. Civil Penalty. Any person who violates or fails to comply with any of the provisions of this chapter is subject to a civil penalty in the amount of One Hundred Dollars ($100) per day for each violation or failure to comply. Each day a person violates or fails to comply with any of the provisions of this chapter may be considered a separate violation for which a penalty may be imposed.

B. Alternative Criminal Penalty. Any person who violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply, and none of the mental states described in Section 12A.04.030 need be proved. Each day a person violates or fails to comply with any of the provisions of this chapter may be considered a separate violation. The City Attorney may prosecute such violation or failure to comply criminally as an alternative to the civil penalty provided by this section.

C. Additional remedies. Commission of any of the acts made unlawful by the provisions of Sections 7.20.040, 7.20.050, 7.20.060, 7.20.070, 7.20.080, 7.20.090, 7.20.100, 7.20.110 or 7.20.130, or the intentional misrepresentation of any material fact in any statement required by this chapter, entitles persons injured thereby to recover actual damages and reasonable attorney's fees incurred as a result of the violation or misrepresentation; shall be available as a ground for injunctive relief, and shall be available as a defense in actions concerning the right to possession, where appropriate.
(Ord. 121468 § 3, 2004; Ord. 121407 § 3, 2004; Ord. 115390 § 6, 1990; Ord. 111526 § 15, 1984.)

Chapter 7.24

RENTAL AGREEMENT REGULATION

Sections:

7.24.010 Short title.

This chapter may be known as the Rental Agreement Regulation Ordinance.
(Ord. 116843 § 1, 1993.)

7.24.020 Definitions.

As used in this chapter:

"Department" means the Department of Planning and Development or its successor.

"Landlord" means a "landlord" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed. At the time of passage of the ordinance codified in this chapter, RLTA defined "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part," and included "any person designated as representative of the landlord."

"Housing costs" means the compensation or fees paid or charged, usually periodically, for the use of any property. land, buildings, or equipment. For purposes of this chapter, housing costs include the basic rent charge and any periodic or monthly fees for other services paid to the landlord by the tenant, but do not include utility charges that are based on usage and that the tenant has agreed in the rental agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the rental agreement.

"Rental agreement" means a "rental agreement" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed. At the time of the passage of the ordinance codified in this chapter, the RLTA defined "rental agreement" as "all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit."

"Tenant" means a "tenant" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed. At the time of passage of the ordinance codified in this chapter, the RLTA defined "tenant" as "any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement."
(Ord. 121276 § 11, 2003; Ord. 119171 § 1, 1998; Ord. 116843 § 2, 1993.)

7.24.030 Rental agreement requirements.

A. Any rental agreement or renewal of a rental agreement for a residential rental unit in the City of Seattle entered into after the effective date of the ordinance adding this subsection A shall include or shall be deemed to include a provision requiring a minimum of sixty (60) days prior written notice whenever the periodic or monthly housing costs to be charged a tenant is to increase by ten (10) percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding twelve (12) month period.

B. No rental agreement entered into after the effective date of the ordinance codified in this chapter that creates or purports to create a tenancy from month to month or from period to period on which rent is payable, may:

1. Require occupancy for a minimum term of more than one (1) month or period;

2. Impose penalties, whether designated as "additional rent" or fees, if a tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection B(1) of this section;

3. Require forfeiture of all or any part of a deposit if the tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection B(1) of this section; provided, that nothing in this chapter shall prevent a landlord from retaining all or a portion of a deposit as compensation for damage to the premises as provided by law and the rental agreement or, as provided by law, for failure to perform other obligations imposed by the rental agreement.

(Ord. 119171 § 2, 1998: Ord. 116843 § 3, 1993.)

7.24.040 Provisions in violation of restrictions null and void.

Any provisions in violation of Section 7.24.030 of this chapter in a rental agreement are null and void and of no lawful force and effect.
(Ord. 116843 § 4, 1993.)

7.24.050 Defense in commencing action--Fees and costs awarded.

In any action commenced for unlawful detainer or to enforce a rental agreement, to impose penalties or to forfeit a deposit contrary to rental agreement provisions required by Section 7.24.030 A of this chapter or pursuant to rental agreement provisions prohibited by Section 7.24.030 B of this chapter, it shall be a defense that such provisions are contrary to the requirements for rental agreements imposed by this chapter, and a tenant who prevails on such defense shall be awarded reasonable attorney fees and costs.
(Ord. 119171 § 3, 1998: Ord. 116843 § 5, 1993.)

7.24.060 Landlord liability to tenant.

A. If a landlord attempts to enforce provisions contrary those required to be included in a rental agreement by Section 7.24.030 A or includes provisions prohibited by Section 7.24.030 B in a rental agreement entered into after the effective date of this ordinance, the landlord shall be liable to the tenant for any actual damages incurred plus double the amount of any penalties imposed or security deposit forfeited, as well as reasonable attorney fees and costs. Prior to seeking damages and penalties for failure to return a security deposit, the tenant must have requested return of the security deposit from the landlord.

B. A landlord who includes provisions prohibited by Section 7.24.030 B in a new rental agreement, or in a renewal of an existing agreement, shall be liable to the tenant for One Thousand Dollars ($1,000) plus reasonable attorney fees and costs.
(Ord. 119171 § 4, 1998; Ord. 116843 § 6, 1993.)

7.24.070 Summaries of landlord and tenant rights.

The Department shall, as soon as practicable after passage of the ordinance codified in this chapter, and as the Department shall deem necessary thereafter, prepare a summary of this chapter, and of the Housing and Building Maintenance Code, the Tenant Relocation Assistance Ordinance, and of the Condominium and Cooperative Conversion Ordinance, describing the respective rights, obligations and remedies of landlords and tenants thereunder, and shall make such summaries available at cost for public inspection and copying. The summaries prepared by the Department shall serve as informational documents only, and nothing therein shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor shall the Department be liable for any misstatement or misinterpretation of the applicable laws.
(Ord. 116843 § 7, 1993.)

7.24.080 Distribution of summaries by landlord required.

A. A copy of any recent summaries prepared by the Director pursuant to Section 7.24.070, along with any recent summary of the Residential Landlord-Tenant Act prepared by the Office of the Attorney General of the State of Washington, shall be attached to each written rental agreement and provided to any tenant or prospective tenant by or on behalf of a landlord when such rental agreement is offered, whether or not such agreement is for a new or renewal rental agreement.

B. Where there is an oral agreement, the landlord shall give the tenant copies of the summaries described in Section 7.24.070 and subsection A of this section either before entering into the oral agreement or as soon as reasonably possible after entering into the oral agreement.

C. For existing tenants, landlords shall, within thirty (30) days after available, or within a reasonable time thereafter, distribute copies of the summaries described in Section 7.24.070 and subsection A of this section to existing tenants.
(Ord. 116843 § 8, 1993.)

7.24.090 Remedies for tenants if landlord fails to comply.

A. If a landlord fails to comply with the requirements of subsection A or B of Section 7.24.080 and such failure was not caused by the tenant, the tenant may terminate the rental agreement by written notice pursuant to law.

B. In addition to the remedy provided by subsection A of this section, if a landlord fails to comply with the requirements of subsection A, B or C of Section 7.24.080, the tenant may recover in a civil action from the landlord actual damages, attorney fees and a penalty of One Hundred Dollars ($100.00). If a court determines that the landlord deliberately failed to comply with the requirements of subsection A, B or C of Section 7.24.080, the penalty shall be Two Hundred Dollars ($200.00).
(Ord. 116843 § 9, 1993.)

7.24.100 Rental agreement that waives tenant's remedies prohibited--Exception.

A. No rental agreement, whether oral or written, may provide that the tenant waives or foregoes rights or remedies under this chapter, except as provided by subsection B below.

B. A landlord and tenant may agree, in writing, to waive specific requirements of this chapter if all

of the following conditions have been met:

1. The agreement to waive specific provisions is in writing and identifies the specific provisions to be waived; and

2. The agreement may not appear in a standard form written lease or rental agreement; and

3. There is no substantial inequality in the bargaining position of the two (2) parties; and

4. The attorney for the tenant has approved in writing the agreement as complying with subsections (B) (1), (B) (2) and (B) (3) of this section.

(Ord. 116843 § 10, 1993.)

Chapter 7.25

THIRD PARTY BILLING REGULATION

Sections:

7.25.010 Short title and purpose.

A. This chapter may be known and be cited as "Third Party Billing Regulation." The general purpose of this chapter is to prevent landlords, either themselves or through a third party billing agent, from billing tenants for master metered or other unmetered utility services without proper notice and disclosure of billing practices to tenants, and to protect tenants from deceptive or fraudulent billing practices, and to these ends the provisions of this chapter shall be liberally construed.

B. Nothing in this chapter shall be construed to prevent a landlord from including a tenant's cost of master metered or other unmetered utility services within the rent set forth in a rental agreement, and the practice of including such cost within a tenant's rent shall not be considered a billing practice or methodology affected by the provisions of this chapter.

C. Nothing in this chapter shall be construed to affect the practices used by Seattle Public Utilities or Seattle City Light to bill and collect residential multi-unit building owners or landlords for master metered or other unmetered utility service.

(Ord. 121320 § 1, 2003.)

7.25.020 Definitions.

As used in this chapter:

A. "Billing entity" means the landlord or third party billing agent, as the case may be, responsible for billing residential multi-unit building tenants for master metered or other unmetered utility service.

B. "Disclosure" means providing tenants with complete and accurate written information in a clear, concise, and understandable manner in all notices required under this chapter and on each bill presented from the billing entity to tenants.

C. "Landlord" means a "landlord" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed, and shall also mean the owner of a mobile home park or boat moorage. At the time of passage of the ordinance codified in this chapter, RLTA defined "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part," and included "any person designated as representative of the landlord."

D. "Master metered utility service" means a utility service supplied to more than one (1) unit in a multi-unit building and measured through a single inclusive metering system.

E. "Methodology" refers to any method, technique, or criterion used to apportion to tenants charges billed to the landlord by the utility for master metered utility service or unmetered utility service, including but not limited to Ratio Utility Billing Systems, installation of submetering, and hot water metering.

F. "Multi-unit building" refers to a residential building or group of buildings (which may include a mobile home park or boat moorage) with 3 or more tenant units with a master metered utility service or unmetered utility service, such as solid waste collection, that is provided to the building or group of buildings as a whole.

G. "Personally identifiable information" means specific information about a tenant, including but not limited to the tenant's social security number, birth date, mother's maiden name, banking data or information, or any other personal or private information.

H. "Ratio Utility Billing System" or "RUBS" refers to any methodology by which the cost of master metered or other unmetered utility service provided to tenants and common areas of a multi-unit building is apportioned to tenants through the use of a formula that estimates the utility usage of each rental unit in the building based on the number of occupants in a unit, number of bedrooms in a unit, square footage of a unit, or any similar criterion.

I. "Rental agreement" means a "rental agreement" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed, and is deemed to include any month-to-month tenancy arrangement, whether written or oral. At the time of the passage of the ordinance codified in this chapter, the RLTA defined "rental agreement" as "all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit."

J. "Service charge" refers to any charge or fee imposed by the billing entity to cover the costs of providing or administering the billing practices, regardless of the label applied to such charge or fee.

K. "Tenant" means a "tenant" as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed, and shall also mean a tenant of a

mobile home park or boat moorage. At the time of passage of the ordinance codified in this chapter, the RLTA defined "tenant" as "any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement."

L. "Billing practices" refers to the practices of a landlord or third party billing agent, as defined herein, that bills residential multi-unit building tenants for the purpose of apportioning master metered or other unmetered utility services provided to the building(s) as a whole, either by directly submetering tenants' usage or by otherwise apportioning such utility services among tenants, and also refers to any practices related thereto, including but not limited to collecting, using or disclosing tenants' personally identifiable information (other than name and address), attempting to collect unpaid amounts from tenants, verifying tenants' credit, and reporting unpaid balances to credit reporting agencies.

M. "Third party billing agent" refers to any entity retained or authorized by a landlord to bill tenants for master metered or other unmetered utility service on behalf of and as the agent of a landlord.

N. "Utilities" or "utility service(s)" refers to water, sewer, electric, and solid waste services.
(Ord. 121320 § 1, 2003.)

7.25.030 Prohibited billing practices.

A. It is a deceptive and fraudulent business practice for any landlord or third party billing agent to bill tenants separately for utility services except as permitted in this chapter.

B. It is a deceptive and fraudulent business practice for a landlord to engage, retain, or authorize, and a landlord shall be liable for the actions of, a third party billing agent that does not comply with the requirements of this chapter.

C. As of the effective date of this ordinance, no landlord may disclose to a third party billing agent a tenant's personally identifiable information under any circumstances, provided, however, that nothing in this chapter shall prevent a landlord from disclosing a tenant's name and address to a third party billing agent for the purpose of engaging in permitted billing practices.

D. A third party billing agent who prior to the effective date of this ordinance has obtained any tenant's personally identifiable information (other than name and address) shall not use, sell, convey, or otherwise disclose that personally identifiable information to any other person, except as expressly permitted in this chapter, and must destroy all such information upon a tenant's request, when the tenancy terminates and the account is paid, or when the landlord terminates the third party billing agency relationship.

E. No third party billing agent may inform a credit reporting agency of a claim against a tenant except as expressly permitted in RCW Chapter 19.16, regardless of whether the third party billing agent is licensed by the state pursuant to that chapter.
(Ord. 121320 § 1, 2003.)

7.25.040 Billing requirements--Submeter testing fee.

A. Notwithstanding the prohibition against submetering electric service in SMC 21.49.100(G), a

landlord may, itself or through a third party billing agent, bill tenants for master metered or other unmetered utility services, including electric service provided to tenants of multi-unit buildings, provided that the following requirements are met:

1. Notice. Billing practices may be adopted only upon advance written notice to a tenant as part of a new or renewed rental agreement. Tenants must receive such written notice at least 90 days before expiration of their rental agreements, or, in the case of month-to-month tenancies, at least 90 days before any such billing practices may become effective. Notwithstanding the foregoing two sentences, if billing practices are already in place at the time the ordinance codified in this chapter becomes effective, written notice must be given within 30 days of the effective date of the ordinance codified in this chapter.

2. Methodology. The notice required under section A.1 above must include a copy of this chapter and a detailed written disclosure of the methodology used by the billing agent to allocate the charges to each tenant, including the methodology used to allocate utility services for common areas of the building, along with all other terms and conditions of the billing arrangement. If submetering is used, the notice required under section A.1 shall also include descriptions of the location of the submeter and of the access requirements, if any, required by the landlord for access to tenant units for submeter installation, reading, repair, maintenance, or inspections, including removal of the submeter for testing, consistent with the provisions of RCW 59.18.150 of the RLTA. An additional written notice must also be given at least 30 days prior to the due date of the next rental payment in order to implement a change in billing agents, apportionment methodology, fees, or other terms and conditions of the billing arrangement.

3. Posting of Information.

   a. In addition to the written notification required by subsection A.2. above, any landlord employing billing practices shall post in a conspicuous public space in the interior of the building copies of the three most current utility bills for master metered or other unmetered utility services provided to the building as a whole that are included in the bill sent to the tenant, together with a written description of the methodology used to allocate each such utility service and a copy of this chapter.

   b. Where such posting is physically impracticable due to the absence of a suitable conspicuous public space, a landlord may satisfy this posting requirement by hand-delivering or mailing to tenants a paper copy of the written notification required by subsection A.2, together with a written description of the methodology used to allocate each such utility service and a copy of this chapter. In lieu of posting the three most current utility bills for master metered or other unmetered utility services provided to the building as a whole that are included in the bill sent to the tenant, the landlord must make such utility bills available upon request within 5 business days and must inform tenants in the written notification required by subsection A.2 of the method by which they may request such utility bills.

   c. Landlords shall keep bills for master metered or other unmetered utility services on file in the building for at least two years and shall make such bills available to tenants for

inspection and copying upon request. Where it is physically impracticable to keep such bills on file due to the absence of a suitable office or other storage space, a landlord may store the bills in another location and must make such bills available within 5 business days of receiving a request from a tenant.

4. Limitations on Charges. The total of all charges for any utility service included in the bills sent to all units cumulatively shall not exceed the amount of the bill sent by the utility itself for the building as a whole, less any late charges, interest or other penalties owed by the landlord, with the exception of the following, which may be included in each bill covering an independent unit within the multi-unit building:

   a. A service charge of no more than $2 per utility per month, not to exceed a cumulative service charge of $5 per month for all the utilities included in any bill.

   b. Late payment charges of no more than $5 per month plus interest at a rate not to exceed 1% per month, which late payment charge shall not accrue until at least 30 days after the tenant receives the bill.

   c. Insufficient funds check charges for dishonored checks, not to exceed $31 per dishonored check.

5. Licensing of Third Party Billing Agents. Any third party billing agent must be properly registered and licensed to do business in the State of Washington and City of Seattle and must be in compliance with all applicable Washington state and Seattle laws and regulations, and all applicable Washington and Seattle license identification numbers, if any, must be disclosed upon request.

6. Content of Bills. Each billing statement sent to a tenant by a billing entity must disclose all required information in a clear and conspicuous manner and at minimum must:

   a. Include the name, business address & telephone number of the billing entity;

   b. Identify and show the basis for each separate charge, including service charges and late charges, if any, as a line item, and show the total amount of the bill;

   c. If the building units are submetered, include the current and previous meter readings, the current read date, and the amount consumed (or estimated to have been consumed if Seattle Public Utilities or Seattle City Light has provided the landlord with an estimated bill);

   d. Specify the due date, the date upon which the bill becomes overdue, the amount of any late charges or penalties that may apply, and the date upon which such late charges or penalties may be imposed;

   e. Identify any past due dollar amounts;

f. Identify a mailing address and telephone number for billing inquiries and disputes, identify the entity responsible for resolving billing inquiries and disputes and its business hours and days of availability, and describe the process used to resolve disputes related to bills as set forth in this chapter; and

g. Include a statement to the effect that "this bill is from [landlord name] and not from Seattle Public Utilities or Seattle City Light."

7. Protection of Personally Identifiable Information.

a. A third party billing agent who prior to the effective date of this ordinance has obtained a tenant's personally identifiable information shall take such actions as are necessary to protect such personally identifiable information and to prevent its use or disclosure except as expressly permitted in this chapter.

b. A third party billing agent who prior to the effective date of this ordinance has obtained a tenant's personally identifiable information may disclose such personally identifiable information only to the extent necessary to render its billing services.

c. To the extent required by federal, state, or local law, a billing entity may disclose personally identifiable information in its possession (i) pursuant to a subpoena or valid court order authorizing such disclosure, or (ii) to a governmental entity.

8. Estimated Billing. If Seattle Public Utilities or Seattle City Light has billed the landlord using an estimate of utility service consumed, the billing agent may estimate the charges to be billed to tenants until billing based on actual consumption resumes. Upon receipt of a corrected bill showing that the estimated bill overstated charges, the landlord must refund the difference to tenants. Upon receipt of a corrected bill showing that the estimated bill understated charges, the landlord may attempt to recover the underpayment from the tenants that actually incurred the charges during the billing period, but shall not attempt to recover an underpayment from a tenant who did not reside in the unit during the billing period in which the charges were incurred.

9. Submetering. Submetering is permitted as a way of allocating master metered utility services to tenants provided the following conditions are met:

a. The submeters must be read prior to each billing.

b. A landlord may not enter a unit without, and a tenant may not unreasonably withhold, consent to enter the unit in order to perform submeter installation, reading, repair, maintenance, and inspection, including removal of the submeter for testing, provided, however, that a landlord may enter a unit without a tenant's consent in the case of a submeter leak or emergency related to that unit's submeter.

c. (i) The accuracy tolerance for the maximum flow rate shall be within one and one-half (1.5) percent for all submeter types. The accuracy tolerance for the minimum flow rate shall be within three (3) percent for Multi-jet submeter types, and within a one and one-half (1.5)

percent over-registration and a five (5) percent under-registration for other than Multi-jet submeter types.

(ii) If a tenant contests the accuracy of the submeter, the tenant shall have the option of demanding that the City of Seattle provide an independent test of the meter through the Department of Executive Administration. If the meter reads within these ranges of accuracy, the tenant requesting the test shall pay the meter test fee. If the meter reads outside these ranges of accuracy, the landlord shall pay the meter test fee and within thirty (30) days refund any overpayments for the past three (3) months based on a recalculation of the past year's billings by correcting for the inaccuracy of the submeter. Submetering thereafter shall only be permitted with a repaired submeter.

(iii) The meter test fee for each test of a submeter pursuant to this subsection shall be Sixty-five Dollars ($65).

B. Nothing in this section shall be construed to prevent a landlord from addressing billing of master metered or other unmetered utility services in a written addendum to a lease. A lease addendum may be used to give the notice required under subsection A.1 of this subsection, so long as the lease addendum is provided to the tenant with the notice required under that subsection, and so long as all other requirements of this chapter are satisfied.
(Ord. 122213, § 1, 2006; Ord. 121320 § 1, 2003.)

7.25.050 Dispute resolution and remedies.

A. A dispute regarding the amount of charges or other terms and conditions contained in a bill shall be resolved as follows:

1. The tenant must notify the entity responsible for billing disputes as identified in the bill ("Responsible Entity") of the nature of and reason for the dispute by calling the number shown on the bill or by writing a letter to the Responsible Entity within 30 days of receiving the bill. The tenant must have a good faith basis for any such dispute.

2. Within 30 days of receiving notice of a billing dispute, the Responsible Entity must contact the tenant to discuss the dispute, and the Responsible Entity and tenant must determine the amount of disputed and undisputed charges. The tenant must pay all undisputed charges within 30 days of reaching agreement with the Responsible Entity.

3. No late fees or interest charges shall accrue on any disputed portions of a bill while the amount is being resolved in accordance with subsections A.1 and 2, and no collection activity related to the disputed portions of a bill may be instituted against a tenant that has notified the Responsible Entity of a dispute in accordance with this chapter.

4. The tenant and Responsible Entity shall continue to discuss in good faith any remaining disputed amounts and attempt to reach an agreement on the amount due, if any, within 60 days of the Responsible Entity's receipt of notice of a billing dispute. If a tenant is unable to reach a

satisfactory resolution of any portion of a disputed charge within the allotted time, the tenant may exercise any of the remedies set forth in Section B below or any other available remedies, provided, however, that if within 120 days of the Responsible Entity's receipt of notice of a billing dispute, the tenant has not either exercised one of the remedies set forth in Section B or paid the remaining disputed amounts, the landlord may exercise any legal or equitable remedies available to it to collect the unpaid amounts, and provided further that nothing in this subsection shall be construed to deprive a landlord of its right to exercise any legal or equitable remedies available to it against a tenant that has not paid any undisputed charges, has not followed the procedures set forth in this section, or has not exercised good faith in disputing a charge.

B. If a tenant believes that it has been or will be subject to billing practices that violate any provision set forth in this chapter, the tenant may, at its option, file a complaint against the landlord with the Office of the Hearing Examiner or institute a civil action against the landlord, as follows:

1. The Office of the Hearing Examiner is hereby vested with the authority to hear and resolve tenant complaints against landlords regarding billing practices in accordance with its rules and procedures then in force governing contested cases. The filing fee for such a case shall be set at $5.00. Upon the finding of a violation of this chapter, the Hearing Examiner shall award actual damages (including but not limited to refund of any overpayment or other fees or charges resulting from such violation, and costs of pursuing the claim) and a penalty of one hundred dollars, and may permit the tenant to terminate the rental agreement by written notice in accordance with RCW 59.18.090. If the Hearing Examiner determines that the landlord engaged in prohibited billing practices in deliberate violation of this chapter, the penalty mentioned in the preceding sentence shall be two hundred dollars, and the Hearing Examiner shall also award attorneys' fees to the tenant. A final order or decision of the Hearing Examiner may be subject to judicial review in the King County Superior Court in accordance with the Hearing Examiner's rules and procedures.

2. In the alternative, a tenant may institute a civil action against the landlord. Upon a finding that a landlord engaged in billing practices that violate this chapter, the court shall award actual damages (including but not limited to refund of any overpayment or other fees or charges resulting from such violation, and costs of pursuing the claim) and a penalty of one hundred dollars, and may permit the tenant to terminate the rental agreement by written notice in accordance with RCW 59.18.090. If the court determines that the landlord engaged in prohibited billing practices in deliberate violation of this chapter, the penalty mentioned in the preceding sentence shall be two hundred dollars, and the court shall also award attorneys' fees to the tenant.

3. No late fees or interest charges shall accrue on any disputed portions of a bill while the amount is being resolved by the Hearing Examiner or court, and no collection activity or unlawful detainer action alleging default in the payment of rent related to the disputed portions of a bill may be instituted against a tenant that has filed a complaint with the Hearing Examiner or instituted a civil action in accordance with this chapter while the amount is being resolved by the Hearing Examiner or court. If the Hearing Examiner or court resolves the dispute and finds that a tenant that has not acted in good faith in asserting a billing dispute, the Hearing Examiner or court may order the tenant to pay late fees and/or interest charges on some or all of the disputed portions of the bill.

4. A landlord shall not pass on, charge, or otherwise allocate to tenants, in any manner whatsoever, any damages, fine or penalty (including attorneys' fees) that the landlord is ordered to pay under this chapter.

C. The existence of an unresolved or pending billing dispute does not relieve a tenant of its obligation to pay in a timely fashion all undisputed charges, including those undisputed charges that accrue after the dispute resolution procedures of this chapter have been invoked.
(Ord. 121320 § 1, 2003.)

Chapter 7.26

REFUND ANTICIPATION LOAN REGULATION

7.26.010 Short title and purpose.

A. This chapter may be known and be cited as "Refund Anticipation Loan Regulation." This entire chapter shall be deemed an exercise of the police power of the City for the protection of the public economic and social welfare, health, peace and morals, and for the protection of consumers who are offered and/or enter into refund anticipation loan, refund anticipation check, assisted direct deposit, and other similar transactions facilitated in the City of Seattle, and shall be liberally construed to effectuate its purpose.

B. Nothing in this chapter shall be construed to regulate the practices of lending institutions governed by federal and/or state banking laws.

C. Nothing in this chapter shall be construed to relieve a facilitator as defined herein of complying with any legal or regulatory obligation(s) that may apply to it under federal, Washington state, or other local law, including but not limited to the federal Truth-in-Lending Act.
(Ord. 121594 § 1, 2004.)

7.26.020 Definitions.

As used in this chapter

A. "Assisted direct deposit" or "ADD" means a mechanism or agreement through which a taxpayer's refund is deposited in a bank account other than the taxpayer's, and then the remaining portion of the refund, minus fees to the facilitator and the lender, is deposited in the taxpayer's own account.

B. "Bank Product" means a RAL, RAC, ADD, or other similar mechanism, agreement, or transaction that allows a taxpayer to receive an income tax refund or a loan against an anticipated refund from an entity other than the IRS, and/or allows the facilitator to collect fees for its non-Bank Product services or

products, Bank Product Fees, and other similar fees from the proceeds of the taxpayer's income tax refund.

C. "Bank Product Fee" means all charges, fees, or other consideration charged or imposed by the facilitator and the lender for the making of or in connection with a Bank Product, and includes (i) any charge, fee, or other consideration for a deposit account used for receipt of the taxpayer's tax refund; (ii) processing or administrative fees for Bank Products that are not charged to taxpayers who receive their refunds directly from the IRS via mail or direct deposit to the taxpayer's bank account; and (iii) in the case of a RAL, the charges, fees or other consideration charged or imposed by the lender for making the loan. This term does not include any charge, fee, or other consideration usually charged or imposed by the facilitator in the ordinary course of business, such as fees for tax return preparation and fees for electronic filing of tax returns, if the same fees in the same amount are charged to the facilitator's customers who do not use Bank Products.

D. "Disclosure" means complete and accurate information, presented in a clear, concise, and understandable manner in all written and oral notices, documents, and explanations required under this chapter.

E. "Facilitator" means a person, partnership, corporation or other business entity that, for compensation from a taxpayer or any other person, assists the taxpayer in applying for or obtaining a Bank Product. The term does not include a lender that provides a Bank Product, a servicer for the lender that operates under the lender's name or any person who does not have direct contact with a borrower in connection with applying for or obtaining a Bank Product.

F. "Refund anticipation loan" or "RAL" means any loan a taxpayer may receive against his or her anticipated income tax refund.

G. "Refund anticipation check" or "RAC" means a check or other payment mechanism: (i) representing proceeds of the taxpayer's tax refund; (ii) which was issued by a depository institution or other person that received a direct deposit of the taxpayer's tax refund; and (iii) for which the taxpayer has paid a fee or other consideration.

H. "RAL Annual Percentage Rate" or "APR" is the annualized interest rate for the RAL as determined in accordance with the federal Truth in Lending Act.

I. "Taxpayer" means any natural person who, singly or jointly with another natural person, is solicited for, receives information about, applies for, and/or receives the proceeds of a Bank Product. (Ord. 121594 § 1, 2004.)

7.26.030 Prohibited practices.

A facilitator shall not:

A. Offer or facilitate a Bank Product except as expressly provided in this chapter;

B. Require a client to use a Bank Product in order to receive non-Bank Product services or products from the facilitator;

C. Obtain the signature of a taxpayer on a disclosure required under this chapter that contains blank

spaces to be filled in after the taxpayer has signed the disclosure;

D. For any Bank Product application that has been approved under the facilitator's usual and customary approval procedures, fail to arrange for a Bank Product promptly after the taxpayer applies for the Bank Product and approval is granted; or

E. Facilitate a Bank Product for which the Bank Product Fee, is greater than the fee stated in the disclosure, or facilitate a RAL for which the APR is greater than the interest rate stated in the disclosure, provided, however, that an increase in an APR on a RAL above the interest stated in the disclosure brought about by a lender's decision to fund a RAL at an amount less than the taxpayer's anticipated refund shall not constitute a violation of this subsection.
(Ord. 121594 § 1, 2004.)

7.26.040 Required disclosures and practices.

A. As set forth more specifically in subsections B through F of this section, if a facilitator offers to make or facilitate a Bank Product for the taxpayer, the facilitator must explain that the taxpayer has a choice of methods for receiving a tax refund, must first disclose the availability and timing of receiving a refund directly from the IRS without using a Bank Product before describing any available Bank Products, and must provide clear, complete, and accurate information about each available option, including receiving a refund directly from the IRS.

B. Before or at the same time that the facilitator first mentions or offers a Bank Product to the taxpayer, the facilitator must provide (i) the following disclosures, or disclosures substantially similar in form, content, and scope, for receiving a refund directly from the IRS without incurring fees (other than tax preparation and filing fees); (ii) for each Bank Product offered, the following specific disclosures, or disclosures substantially similar in form, content, and scope, and (iii) if RALs are offered, examples of the APR for RALs of five hundred dollars ($500.00), one thousand dollars ($1,000.00), two thousand dollars ($2,000.00), and five thousand dollars ($5,000.00) (or at least four other representative loan amounts) as if those loans were made on the same terms as the loan offered to the taxpayer. The required disclosures must be made in writing, separate from any other document or writing, double-spaced, in at least 14-point type, with the heading "Options for Receiving your Refund" or a substantially similar heading. The facilitator must offer the taxpayer the choice of English and Spanish language written versions of the disclosures; and must simultaneously provide a point-by-point oral explanation of the disclosures in English or Spanish as appropriate, or in a language understood by the taxpayer in the event that the taxpayer does not understand the disclosures in English or Spanish (which may be provided using a translator provided by the taxpayer).

IF YOU ARE ELIGIBLE FOR AN INCOME TAX REFUND, YOU MAY CHOOSE HOW YOU FILE YOUR RETURN AND RECEIVE YOUR REFUND.

IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND THE IRS APPROVES YOUR REFUND, THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK ACCOUNT WITHIN ABOUT TWO WEEKS [or such other time as the IRS may announce for a direct deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL WITHIN ABOUT THREE WEEKS [or such other time as the IRS may announce for a mailed refund from an e-filed return].

IF YOU MAIL YOUR TAX RETURN TO THE IRS AND THE IRS APPROVES YOUR REFUND, THE IRS WILL USUALLY DIRECT DEPOSIT YOUR REFUND INTO YOUR BANK ACCOUNT WITHIN ABOUT FIVE TO SEVEN WEEKS [or such other time as the IRS may announce for direct deposited refund from an e-filed return], OR WILL SEND YOU A CHECK THROUGH THE MAIL WITHIN ABOUT SIX TO EIGHT WEEKS [or such other time as the IRS may announce for a mailed refund from an e-filed return].

[*if RACs are offered*]

IF YOU DON'T HAVE A BANK ACCOUNT TO RECEIVE A DIRECT DEPOSIT, YOU MAY WANT TO CONSIDER OPENING ONE. WE CAN OPEN A TEMPORARY BANK ACCOUNT FOR YOU AND HELP YOU GET A "REFUND ANTICIPATION CHECK" IN ABOUT TWO WEEKS AFTER YOU FILE ELECTRONICALLY IF THE IRS APPROVES YOUR REFUND, BUT YOU WILL HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [$$] TO US AND [$$] TO THE BANK.

[*if RALs are offered*]

YOU MAY ALSO BE ELIGIBLE FOR A "REFUND ANTICIPATION LOAN," BUT YOU WILL HAVE TO QUALIFY AND YOU WILL HAVE TO PAY A FEE OF [$$] TO US AND [$$] TO THE BANK. IF YOU ARE APPROVED AND YOU DECIDE TO PROCEED, YOU WILL BE TAKING OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS, FEES, AND INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE FROM THE IRS IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES YOUR REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES.

C. In addition to the disclosures required under Subsection B, at the time that the taxpayer asks to apply for a Bank Product (or, in the case of Bank Products facilitated by a tax preparer, the sooner of (i) the time the taxpayer asks to apply or (ii) the time the tax preparer determines that the taxpayer may be eligible for a refund and offers the taxpayer a Bank Product), the facilitator must provide the following disclosures, or disclosures substantially similar in form, content, and scope for all Bank Products offered. The foregoing disclosures must be made in writing, separate from any other document or writing, double-spaced, in at least 14-point type. The facilitator must offer the taxpayer the choice of English and Spanish language written versions of the disclosures; and must simultaneously provide a point-by-point oral explanation of the disclosures in English or Spanish as appropriate, or in a language understood by the taxpayer in the event that the taxpayer does not understand the disclosures in English or Spanish (which may be provided using a translator provided by the taxpayer).

[*for RALs*]

YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION. YOU CAN STILL OBTAIN OUR SERVICES AND/OR PRODUCTS EVEN IF YOU DECIDE NOT TO ENTER

INTO THIS REFUND ANTICIPATION LOAN AGREEMENT, OR IF YOUR APPLICATION IS DENIED.

IF YOU DO APPLY FOR A REFUND ANTICIPATION LOAN AND YOUR LOAN IS APPROVED, YOU WILL BE TAKING OUT A LOAN THAT MUST BE PAID BACK WITH INTEREST. YOU WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS, FEES, AND INTEREST, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE IN YOUR TAX REFUND. THIS MEANS THAT IF THE IRS REDUCES OR DENIES YOUR REFUND, YOU WILL STILL BE RESPONSIBLE FOR REPAYING THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES.

IF YOUR REFUND ANTICIPATION LOAN IS APPROVED, YOU WILL BE RESPONSIBLE TO PAY $[insert itemized amount] IN FEES, INTEREST, AND OTHER CHARGES FOR THE LOAN, WHICH WE WILL AUTOMATICALLY DEDUCT. AFTER WE DEDUCT THESE FEES, INTEREST, AND OTHER CHARGES FROM YOUR LOAN, YOU WILL RECEIVE APPROXIMATELY $ [insert amount].

THE INTEREST RATE ("APR") OF YOUR REFUND ANTICIPATION LOAN IS [insert percentage as defined in Subsection 7.26.020(H)]. THIS IS BASED ON THE ESTIMATED AMOUNT OF TIME YOU WILL BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN. IF THE IRS DELAYS YOUR REFUND, YOU MAY HAVE TO PAY ADDITIONAL INTEREST.

IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO DAYS OF ELECTRONICALLY FILING YOUR RETURN, AND YOU WILL BEGIN OWING INTEREST AS OF THAT DATE.

[*for RACs*]

YOU ARE PAYING [insert Bank Product Fee for RAC as defined in Section 7.26.020(C)] TO GET YOUR REFUND VIA A BANK CHECK FROM [insert name of RAC issuer]. YOU CAN AVOID THIS FEE AND STILL RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO WEEKS BY HAVING THE IRS DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN BANK ACCOUNT, OR WITHIN ABOUT THREE WEEKS IF THE IRS MAILS YOU A CHECK.

[*for ADD*]

YOU ARE BEING OFFERED "ASSISTED DIRECT DEPOSIT," WHICH MEANS THAT YOUR REFUND WILL BE DEPOSITED IN AN ACCOUNT CREATED BY (insert name of Lender). FEES FOR OUR SERVICES AND PRODUCTS AND FOR THE ASSISTED DIRECT DEPOSIT WILL BE DEDUCTED AND THE REMAINING BALANCE WILL THEN BE TRANSFERRED TO YOUR ACCOUNT. THE TOTAL FEES FOR THIS SERVICE ARE [insert Bank Product Fee as defined in Section 7.26.020(C)] IN ADDITION TO THE FEES FOR OTHER SERVICES AND PRODUCTS THAT WE ARE CHARGING YOU.

D. Before the facilitator allows the taxpayer to enter into a Bank Product arrangement, the facilitator must (i) complete the disclosures required under Subsection C accurately with all relevant information for each

taxpayer, (ii) provide the required point-by-point oral explanation in English, Spanish, or other language understood by the taxpayer (which may be provided using a translator provided by the taxpayer), and (iii) complete all blanks in the disclosure form and, only after all blanks are filled, have the form signed and dated by the taxpayer and the facilitator. The facilitator must provide the taxpayer with a copy of the signed disclosures, and must keep a copy of the signed disclosures on file with the taxpayer's records (e.g., tax return or other records of service) in accordance with the facilitator's usual retention procedures.

E. At the conclusion of providing services or products, a facilitator must provide an itemized statement of the charges for services, at least separately stating the fees and charges for any of the following charged to the taxpayer: (1) preparing the return; (2) filing the return; (3) providing other services (which services shall be separately itemized); and (4) providing or facilitating a Bank Product, which shall be broken down by provider fees and, where applicable, lender fees. The itemized statement should also clearly indicate that these are charges for services rendered and do not include interest owed or to be owed on the Bank Product.

F. The disclosures and practices required in this Section apply to all facilitators that offer to provide or facilitate Bank Products in the City of Seattle, regardless of (i) the medium or means by which they communicate that offer, (ii) the medium or means by which they provide or facilitate the Bank Products, and (iii) whether the facilitator offers to provide or facilitate Bank Products from its own office or premises, or at the taxpayer's office, premises, or residence, provided, however, that nothing in this subsection shall be construed to regulate offers or facilitation conducted solely over the Internet.
(Ord. 121594 § 1, 2004.)

7.26.050 Required posting.

A. Every facilitator shall post, in a prominent location on its premises, a written schedule showing separately its current fees for each service or product offered such as preparing the tax return, Bank Products offered or facilitated by the facilitator, the electronic filing of the taxpayer's tax return, and any other service or product.

B. Every facilitator shall post, in a prominent location on the its premises, the written disclosures required under Subsection 7.26.040(B) and the first two disclosures required under Subsection 7.26.040(C), all of which shall contain the following or a substantially similar legend, centered at the top of the page, in bold, capitalized, one-inch high letters, stating: NOTICE CONCERNING REFUND ANTICIPATION LOANS, REFUND ANTICIPATION CHECKS, AND OTHER BANK PRODUCTS.

C. The postings required by this section shall be made in no less than 28-point type and, in the case of a paper disclosure, on a document measuring no less than 16 inches by 20 inches. The postings required in this section shall be displayed in a prominent location at each office, premise, or location where the facilitator is offering or facilitating Bank Products.

D. No facilitator may offer or facilitate a Bank Product unless the notices required by this section are displayed, and the interest rate and fees (as applicable) actually charged for the Bank Product are the same as or less than the interest rate or fees displayed in the notices.
(Ord. 121594 § 1, 2004.)

7.26.060 Administration and enforcement.

The Director of the Department of Executive Administration ("Director") shall enforce and administer this chapter, and is hereby authorized to adopt procedures for its implementation. The Director and the Director's duly authorized agents are authorized to enter the premises of any facilitator and inspect all disclosures, postings, and other relevant documents for the purpose of determining compliance with this chapter. The Director and the Director's duly authorized agents are authorized to issue citations for violations of this chapter.
(Ord. 121594 § 1, 2004.)

7.26.070 Remedies.

A. A facilitator's failure to comply with any provision of this chapter shall be a Class 1 civil infraction under RCW 7.80.120(1)(a), and shall subject the violator to a maximum monetary penalty and a default amount of Two Hundred Fifty Dollars ($250.00) for each infraction plus statutory assessments. For purposes of Section 7.26.050, each day of noncompliance shall be a separate violation and the monetary penalties shall accumulate.

B. If a taxpayer believes that he or she has been subjected to any practices that violate any provision set forth in this chapter, the taxpayer may file a complaint against the facilitator with the Office of the Hearing Examiner. The Office of the Hearing Examiner is authorized to hear and decide taxpayer complaints against facilitators regarding violations of this chapter in accordance with rules and procedures then in force governing contested cases, and to order the facilitator to pay damages and penalties to the taxpayer as appropriate as described in this Section. The filing fee for such a case shall be set at five dollars ($5.00).

1. Upon finding a violation of this chapter, the Hearing Examiner shall award actual damages (including but not limited to the refund of all fees or charges paid by the taxpayer for the Bank Product), the costs of pursuing the complaint, and a penalty of up to Five Hundred Dollars ($500.00). If the Hearing Examiner determines that the facilitator engaged in prohibited practices in willful violation of this chapter, the penalty mentioned in the preceding sentence shall be Seven Hundred Fifty Dollars ($750.00), and the Hearing Examiner shall also award attorneys' fees to the taxpayer.

2. The facilitator or taxpayer may obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review in the King County Superior Court within fourteen (14) days from the date of the Hearing Examiner's decision in accordance with the procedure set forth in RCW Ch. 7.16. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this subsection.

(Ord. 121594 § 1, 2004.)