

Ordinance No. 120668

Council Bill No. 113875

AN ORDINANCE relating to taxation, adopting the provisions of the model business license tax ordinance, creating separate chapters for administrative provisions and definitions governing taxation, repealing chapter 5.44 of the Seattle Municipal Code, and amending and repealing various other sections of the Seattle Municipal Code in connection therewith.

merge

The City of Seattle
Council Bill/Ordinance

DP as am...

12-10-01 Pass

CB...

CF No. _____

Date Introduced:	OCT 1 - 2001	
Date 1st Referred:	OCT 1 - 2001	To: (committee) Finance, Budget & Economic Development Committee
Date 2nd Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	12-10-01	Full Council Vote: 7-0
Date Presented to Mayor:	12-11-01	Date Approved: 12/11/01
Date Returned to City Clerk:	12/14/01	Date Published: 123875 T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetted by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

[Signature]
Councilmember

(E)
(D)

Committee Action:

OP as amended 2-D (JD, RC)

12-10-01 Passed 7-0

(Excused: Licata, Nocastro)

This file is complete and ready for presentation to Full Council.

Committee: _____

(initials)

Law Department

Law Dept. Review

OMP
Review

(U)
City Clerk
Review

Electronic
Copy Loaded

Indexed

(E)
*Submitted
for Council
12/10/01
Attachment K, B*

ORDINANCE 120668

AN ORDINANCE relating to taxation, adopting the provisions of the model business license tax ordinance, creating separate chapters for administrative provisions and definitions governing taxation, repealing chapter 5.44 of the Seattle Municipal Code, and amending and repealing various other sections of the Seattle Municipal Code in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Effective January 1, 2002, Chapter 5.44 of the Seattle Municipal Code is repealed in its entirety.

SECTION 2. Effective January 1, 2002, a new Chapter 5.45, "Business License Tax", is added to Title 5 of the Seattle Municipal Code as follows:

5.45.010 Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the City to license or tax for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City Code.

5.45.020 Administrative Provisions.

All of the provisions contained in Chapter 5.55 of the Seattle Municipal Code shall have full force and application with respect to taxes or license fees imposed under the provisions of this chapter except as expressly stated to the contrary herein.

5.45.030 Definitions.



1 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
2 applicable to this chapter except as expressly stated to the contrary herein.

3 **5.45.040 Agency - Sales and services by agent, consignee, bailee, factor or**
4 **auctioneer.**

5 A. Sales in own name - sales or purchases as agent. Every person, including agents,
6 consignees, bailees, factors or auctioneers, having either actual or constructive possession of
7 tangible personal property or having possession of the documents of title thereto, with power to
8 sell such tangible personal property in his or her or its own name and actually so selling shall be
9 deemed the seller of such tangible personal property within the meaning of this chapter.
10

11 The burden shall be upon the taxpayer in every case to establish the fact that such
12 taxpayer is not engaged in the business of selling tangible personal property but is acting merely
13 as broker or agent in promoting sales or making purchases for a principal. Such claim will be
14 recognized only when the contract or agreement between such persons clearly establishes the
15 relationship of principal and agent and when the following conditions are complied with:
16

17 1. The books and records of the broker or agent show the transactions were made
18 in the name and for the account of the principal, and show the name of the actual owner of the
19 property for whom the sale was made, or the actual buyer for whom the purchase was made;
20

21 2. The books and records show the amount of the principal's gross sales, the
22 amount of commissions and any other incidental income derived by the broker or agent from
23 such sales. The principal's gross sales must not be reflected as the agent's income on any of the
24 agent's books and records. Commissions must be computed according to a set percentage or
25 amount, which is agreed upon in the agency agreement;
26
27
28



1 3. No ownership rights may be conferred to the agent unless the principal refuses
2 to pay, or refuses to abide by the agency agreement. Sales or purchases of any goods by a person
3 who has any ownership rights in such goods shall be taxed as retail or wholesale sales; and

4 4. Bulk goods sold or purchased on behalf of a principal must not be co-mingled
5 with goods belonging to another principal or lose their identity as belonging to the particular
6 principal. Sales or purchases of any goods which have been co-mingled or lost their identity as
7 belonging to the principal shall be taxed as retail or wholesale sales.
8

9 B. If the requirements in subsection A above are not met, the consignor, bailor, principal
10 or other shall be deemed a seller of such property to the agent, consignee, bailee, factor or
11 auctioneer.
12

13 C. Services in own name - procuring services as agent. For purposes of this subsection,
14 SMC Section 5.45.040 C, an agent is a person who acts under the direction and control of the
15 principal in procuring services on behalf of the principal that the person could not itself render or
16 supply. Amounts received by an agent for the account of its principal as advances or
17 reimbursements are exempted from the measure of the tax only when the agent is not primarily or
18 secondarily liable to pay for the services procured.
19

20 Any person who claims to be acting merely as agent in obtaining services for a principal
21 will have such claim recognized only when the contract or agreement between such persons
22 clearly establishes the relationship of principal and agent and when the following conditions are
23 complied with:
24



1 1. The books and records of the agent show that the services were obtained in the
2 name and for the account of the principal, and show the actual principal for whom the purchase
3 was made; and

4 2. The books and records show the amount of the service that was obtained for
5 the principal, the amount of commissions and any other income derived by the agent for acting as
6 such. Amounts received from the principal as advances and reimbursements must not be
7 reflected as the agent's income on any of the agent's books and records. Commissions must be
8 computed according to a set percentage or amount, which is agreed upon in the agency
9 agreement.
10

11 **5.45.050 Imposition of the tax - Tax or fee levied.**

12 There is hereby levied upon and shall be collected from every person as hereinafter
13 provided, for the act or privilege of engaging in business activities within the City, whether his or
14 her office or place of business be within or without the City, a business and occupation tax or fee,
15 sometimes herein referred to as the "tax." The tax shall be in amounts to be determined by
16 application of rates against gross proceeds of sale, gross income of business, or value of
17 products, including by-products, as the case may be, as follows:
18

19 A. Upon every person engaging within the City in business as an extractor; as to such
20 persons the amount of the tax with respect to such business shall be equal to the value of the
21 products, including by-products, extracted for sale or for commercial or industrial use, multiplied
22 by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the
23 tax is the value of the products, including by-products, so extracted, regardless of the place of
24 sale or the fact that deliveries may be made to points outside the City.
25
26
27
28



1 B. Upon every person engaging within the City in business as a manufacturer, except
2 persons taxable under subsection D of this Section; as to such persons the amount of the tax with
3 respect to such business shall be equal to the value of the products, including by-products,
4 manufactured or processed, multiplied by the rate of two hundred fifteen one-thousandths of one
5 percent (.00215). The measure of the tax is the value of the products, including by-products, so
6 manufactured or processed, regardless of the place of sale or the fact that deliveries may be made
7 to points outside the City.
8

9 C. Upon every person engaging within the City in the business of making sales at
10 wholesale or retail (including public road construction), except persons taxable under subsection
11 D of this section; as to such persons, the amount of tax with respect to such business shall be
12 equal to the gross proceeds of such sales of the business without regard to the place of delivery of
13 articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-
14 thousandths of one percent (.00215).
15

16 D. Upon every person engaging within the City in the business of:
17

18 1. Buying wheat, oats, corn, barley and rye, but not including any manufactured
19 or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal
20 to the gross proceeds of such sales of the business without regard to the place of delivery of
21 articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen ten-
22 thousandths of one percent (.000215); or
23

24 2. Manufacturing wheat into flour; the tax imposed shall be equal to the value of
25 the flour manufactured, multiplied by the rate of two hundred fifteen ten-thousandths of one
26 percent (.000215).
27
28



1 E. Upon every person engaging within the City in the business of:

- 2 1. printing;
- 3 2. both printing and publishing newspapers, magazines, periodicals, books,
- 4 music, and other items;
- 5 3. publishing newspapers, magazines and periodicals;
- 6 4. processing for hire; or
- 7 5. conducting a tour operator business;
- 8

9 as to such persons, the amount of tax on such business shall be equal to the gross income of the

10 business multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

11

12 F. Upon every other person engaging within the City in any business activity other than

13 or in addition to those enumerated in the above subsections; as to such persons, the amount of tax

14 on account of such activities shall be equal to the gross income of the business multiplied by the

15 rate of four hundred fifteen one-thousandths of one percent (.00415). This subsection includes,

16 among others, and without limiting the scope hereof (whether or not title to material used in the

17 performance of such business passes to another by accession, merger or other than by outright

18 sale), persons engaged in the business of developing, or producing custom software or of

19 customizing canned software, and persons engaged in the business of rendering any type of

20 service which does not constitute a sale at retail or a sale at wholesale.

21

22

23 **5.45.060 Doing business with the City.**

24 Except where such a tax is otherwise levied and collected by the City from such person,

25 there is hereby levied a tax on the privilege of accepting or executing a contract with the City

26 involving the sale to the City of materials, supplies, equipment, improvements or contractual

27

28

1 services. Such tax shall be levied and collected whether the goods or services are delivered
2 within or without the City and whether or not such person has an office or place of business
3 within or without the City.

4 As to such persons the amount of tax shall be equal to the gross contract price multiplied
5 by the rate under SMC Section 5.45.050 that would otherwise apply if the sale or service were
6 taxable pursuant to that section. The gross contract price shall be allocated to the city with which
7 the contract is made. No other city shall have jurisdiction to tax the gross receipts from such
8 contract. The gross contract price may not be reduced by the deduction contained in SMC
9 Section 5.45.100 Q or the interstate deduction SMC Section 5.45.100 T.
10

11 A. The tax levied in this section shall not be levied when:
12

13 1. The aggregate value of all City contracts with the person during the calendar
14 year is Five Thousand Dollars (\$5,000) or less, or

15 2. The person's only source of revenue consists of contracts with the City for
16 neighborhood planning purposes, sister city associations, or Arts Commission grants, and
17 is less than the taxable threshold amount provided in SMC Section 5.55.040 D.
18

19 B. All persons subject to this section, other than those exempted by subsection (A)
20 above, are required to obtain and maintain a business license as prescribed by SMC Section
21 5.55.030.
22

23 C. This section applies to the City and organizations chartered by the City, including but
24 not limited to, contracts with the Seattle City Employee's Retirement System, the Police Pension
25 Fund, the Fire Fighters Pension Fund, Public Safety Civil Service Commission, and any and all
26 public development authorities chartered by the City.
27
28

1 D. All persons are required to pay in full all taxes or fees due under this chapter on
2 account of such contract, or otherwise, before accepting any warrant as final payment for
3 performing any contract for the City. The Director of Finance may withhold payment due a City
4 contractor pending satisfactory resolution of unpaid taxes and fees due the City under this title.

6 **5.45.070 Multiple activities credit when activities take place in one or more**
7 **cities with eligible gross receipt taxes.**

8 A. Persons who engage in business activities that are within the purview of two (2) or
9 more subsections of SMC Section 5.45.050 shall be taxable under each applicable subsection.

10 B. If imposition of the City's tax would place an undue burden upon interstate commerce
11 or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary
12 to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's
13 activities as may be subject to the City's taxing authority.

15 C. To take the credit authorized by this section, a taxpayer must be able to document that
16 the amount of tax sought to be credited was paid upon the same gross receipts used in computing
17 the tax against which the credit is applied and that the taxpayer paid the amount of tax sought to
18 be credited. In order to qualify as an "eligible gross receipts tax," the tax must be imposed at the
19 local level.

21 D. Credit for persons that sell in the City products that they extract or manufacture.
22 Persons taxable under the retailing or wholesaling classification with respect to selling products
23 in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid:

- 24 1. with respect to the manufacturing of the products sold in the City; and
25
26
27
28

1 2. with respect to the extracting of the products, or the ingredients used in the products,
2 sold in the City.

3 The amount of the credit shall not exceed the tax liability arising under this chapter with
4 respect to the sale of those products.

5 E. Credit for persons that manufacture products in the City using ingredients they extract.

6
7 Persons taxable under the manufacturing classification with respect to manufacturing products in
8 this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with
9 respect to extracting the ingredients of the products manufactured in the City. The amount of the
10 credit shall not exceed the tax liability arising under this chapter with respect to the
11 manufacturing of those products.

12
13 F. Credit for persons that sell within the City products that they print, or publish and
14 print. Persons taxable under the retailing or wholesaling classification with respect to selling
15 products in this City shall be allowed a credit against those taxes for any eligible gross receipts
16 taxes paid with respect to the printing, or the printing and publishing, of the products sold within
17 the City. The amount of the credit shall not exceed the tax liability arising under this chapter
18 with respect to the sale of those products.

19
20 **5.45.080 Persons conducting business both within and without the City.**

21 Where SMC 5.45.100 Q (pertaining to the allocation of gross income between
22 jurisdictions that impose an eligible gross receipts tax) does not apply:

23 A. A person who maintains an office or place of business in the City shall be taxable
24 on the gross income, gross proceeds from sales, or value of products, that is derived from the
25 business activities rendered by, generated from, or attributable to the office or place of business
26 located within the City, unless specific deductions or exemptions apply.



1 B. A person who maintains an office or place of business in the City and also
2 elsewhere may allocate to the office or place of business located outside the City that portion of
3 the taxpayer's gross income, gross proceeds of sales, or value of products derived from business
4 activities rendered by, generated from, or attributable to the office or place of business located
5 outside the City. The taxpayer shall allocate gross income to the City based on a segregation of
6 business within and business without the City, as shown and supported by accounting records
7 satisfactory to the Director.

8 If the Director determines that the allocation of gross income from business reported
9 under the "other business activities" classification (SMC 5.45.050(F)) does not fairly reflect
10 gross income derived from business activities within the City, the Director shall determine such
11 gross income by either of the following methods: (a) by a fair and equitable formula agreed upon
12 by the Director and the taxpayer after a consideration of the facts; or (b) by the ratio that the cost
13 of doing business within the City bears to the cost of doing business both within and without the
14 City.

15 C. A person performing business activities in the City who does not maintain an
16 office or place of business in the City shall allocate to the City that portion of the taxpayer's
17 gross income or gross proceeds of sales that is derived from business activities performed in the
18 City.

19 **5.45.090 Exemptions.**

20 The provisions of this Chapter 5.45 shall not apply to the following:

21 A. Non-profit adult family homes. This chapter does not apply to non-profit adult family
22 homes which are licensed as such, or which are specifically exempt from licensing, under rules
23 of the Washington State Department of Social and Health Services.

24 B. Day care provided by churches. This chapter shall not apply to amounts derived by a
25 church that is exempt from property tax under RCW 84.36.020 from the provision of care for
26 children for periods of less than twenty-four (24) hours.
27



1 C. Child care resource and referral services by non-profit organizations. This chapter
2 does not apply to non-profit organizations in respect to amounts derived from the provision of
3 child-care resource and referral services.

4 D. Non-profit organizations that are guarantee agencies, issue debt, or provide guarantees
5 for student loans. This chapter does not apply to gross income received by non-profit
6 organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue
7 Code of 1986, as amended, that:
8

- 9 1. Are guarantee agencies under the federal guaranteed student loan program or
10 that issue debt to provide or acquire student loans; or
11 2. Provide guarantees for student loans made through programs other than the
12 federal guaranteed student loan program.
13

14 E. Non-profit organizations - credit and debt services. This chapter does not apply to
15 non-profit organizations in respect to amounts derived from provision of the following services:
16

- 17 1. Presenting individual and community credit education programs including
18 credit and debt counseling;
19 2. Obtaining creditor cooperation allowing a debtor to repay debt in an orderly
20 manner;
21 3. Establishing and administering negotiated repayment programs for debtors; or
22 4. Providing advice or assistance to a debtor with regard to 1, 2, or 3, above, of
23 this subsection (E).
24

25 F. Certain fraternal and beneficiary organizations. This chapter shall not apply to
26
27
28



1 fraternal benefit societies or fraternal fire insurance associations, as described in Title 48 RCW;
2 nor to beneficiary corporations or societies organized under and existing by virtue of Title 24
3 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of
4 death benefits. This exemption is limited, however, to gross income from premiums, fees,
5 assessments, dues or other charges directly attributable to the insurance or death benefits
6 provided by such societies, associations, or corporations.
7

8 G. Certain corporations furnishing aid and relief. This chapter shall not apply to the
9 gross sales or the gross income received by corporations which have been incorporated under any
10 act of the congress of the United States of America and whose principal purposes are to furnish
11 volunteer aid to members of the armed forces of the United States and also to carry on a system
12 of national and international relief and to apply the same in mitigating the sufferings caused by
13 pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures
14 for preventing the same.
15

16 H. Operation of sheltered workshops. This chapter shall not apply to income received
17 from the Department of Social and Health Services for the cost of care, maintenance, support,
18 and training of persons with developmental disabilities at non-profit group training homes as
19 defined by RCW chapter 71A.22 or to the business activities of non-profit organizations from the
20 operation of sheltered workshops. For the purposes of this subsection, SMC 5.45.090 H, "the
21 operation of sheltered workshops" means performance of business activities of any kind on or off
22 the premises of such non-profit organizations which are performed for the primary purpose of:
23
24

- 25 1. providing gainful employment or rehabilitation services to the handicapped or
26 disabled as an interim step in the rehabilitation process for those who cannot be readily absorbed
27
28

1 in the competitive labor market or during such time as employment opportunities for them in the
2 competitive labor market do not exist; or

3 2. providing evaluation and work adjustment services for handicapped or disabled
4 individuals.

5 I. Credit unions. This chapter shall not apply to the gross income of credit unions
6 organized under the laws of this state, any other state, or the United States.
7

8 J. Certain hospitals and clinics. This chapter shall not apply to the gross income received
9 by the United States or any instrumentality thereof, by the state, or any municipal subdivision
10 thereof, or by any religious society, religious association or religious corporation, through the
11 operation of any hospital, clinic, resort or other institution devoted exclusively to the care or
12 healing of human beings; provided, that no exemption is granted where the income therefrom
13 inures to the benefit of any physician, surgeon, stockholder or individual by virtue of ownership
14 or control of such hospital, clinic, resort or other institution.
15

16 K. Gross receipts taxed under other Seattle Municipal Code (SMC) Sections. This
17 chapter shall not apply to any person in respect to a business activity with respect to which tax
18 liability is specifically imposed under the provisions of SMC 5.48 or SMC 5.52.030(B)(1) and
19 (B)(3) (bona fide charitable or non-profit organization gambling activity, bingo, raffle and
20 fundraising activities), as amended.
21

22 L. Investments - dividends from subsidiary corporations. This chapter shall not apply to
23 amounts derived by persons, other than those engaging in banking, loan, security, or other
24 financial businesses, from investments or the use of money as such, and also amounts derived as
25 dividends by a parent from its subsidiary corporations.
26
27
28



1 M. International banking facilities. This chapter shall not apply to the gross receipts of
2 an international banking facility. As used in this subsection, SMC 5.45.090 (M), an
3 "international banking facility" means a facility represented by a set of asset and liability
4 accounts segregated on the books and records of a commercial bank, the principal office of which
5 is located in this state, and which is incorporated and doing business under the laws of the United
6 States or of this state, a United States branch or agency of a foreign bank, an Edge corporation
7 organized under Section 25(A) of the Federal Reserve Act, 12 United States Code 611-631, or an
8 Agreement corporation having an agreement or undertaking with the Board of Governors of the
9 Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code
10 601-604(a), that includes only international banking facility time deposits (as defined in
11 subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the
12 Board of Governors of the Federal Reserve System), and international banking facility extensions
13 of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D).
14
15

16 N. Insurance business. This chapter shall not apply to amounts received by any person or
17 agent who is an insurer upon which a tax based on gross premiums is paid to the state pursuant to
18 RCW 48.14.020; provided that the provisions of this subsection shall not exempt any person
19 engaging in the business of insurance as a broker as defined in RCW 48.17.020 or as a solicitor
20 as defined in RCW 48.17.030; and provided further, that the provisions of this subsection shall
21 not exempt any bonding company from tax with respect to gross income derived from the
22 completion of any contract as to which it is a surety, or as to any liability as successor to the
23 liability of the defaulting contractor.
24
25
26
27
28



1 O. Farmers - agriculture. This chapter shall not apply to any farmer in respect to
2 amounts received from selling fruits, vegetables, berries, butter, eggs, fish, milk poultry, meats or
3 any other agricultural product that is raised, caught, produced, or manufactured by such persons.

4 P. Athletic exhibitions. This chapter shall not apply to any person in respect to the
5 business of conducting boxing contests and sparring or wrestling matches and exhibitions for the
6 conduct of which a license must be secured from the State Boxing Commission.

7 Q. Racing. This chapter shall not apply to any person in respect to the business of
8 conducting race meets for the conduct of which a license must be secured from the Washington
9 State Horse Racing Commission.

10 R. Ride sharing. This chapter does not apply to any funds received in the course of
11 commuter ride sharing or ride sharing for persons with special transportation needs in accordance
12 with RCW 46.74.010.

13 S. Employees. This chapter shall not apply to any person in respect to his or her
14 employment in the capacity as an employee or servant as distinguished from that of an
15 independent contractor. For the purposes of this subsection, SMC 5.45.090 (S), the definition of
16 employee shall include those persons that are defined in section 3121(d)(3)(B) of the Internal
17 Revenue Code of 1986, as amended through January 1, 1991. For purposes of this Chapter, a
18 booth renter, as defined by RCW 18.16.020, is an independent contractor.

19 T. Amounts derived from sale of real estate. This chapter shall not apply to gross
20 proceeds derived from the sale of real estate. This, however, shall not be construed to allow an
21 exemption of amounts received as commissions from the sale of real estate, nor as fees, handling
22



1 charges, discounts, interest or similar financial charges resulting from, or relating to, real estate
2 transactions.

3 U. Mortgage brokers' third-party provider services trust accounts. This chapter shall not
4 apply to amounts received from trust accounts to mortgage brokers for the payment of third-party
5 costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules
6 adopted by the director of financial institutions.
7

8 V. Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This
9 chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the
10 term "motor vehicle fuel" is defined in RCW 82.36.010 and exempted under RCW 82.36.440,
11 provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction
12 or exemption, will be taxable under this chapter.
13

14 W. Amounts derived from liquor, and the sale or distribution of liquor. This chapter
15 shall not apply to liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.
16

17 X. Casual and isolated sales. This chapter shall not apply to the gross proceeds derived
18 from casual or isolated sales.

19 Y. Health maintenance organization, health care service contractor, certified health plan.
20 Beginning on January 1, 2000, this chapter does not apply to any health maintenance
21 organization, health care service contractor, or certified health plan in respect to premiums or
22 prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums
23 and payments for health benefit plans offered by health care service contractors under RCW
24 chapter 48.44 and health maintenance organizations under RCW chapter 48.46 and does not
25
26
27
28



1 apply to health care services directly delivered by the employees of a health maintenance
2 organization under RCW chapter 48.46.

3 Z. Accommodation sales. This chapter shall not apply to sales for resale by persons
4 regularly engaged in the business of making sales of the type of property so sold to other persons
5 similarly engaged in the business of selling such property where:

6
7 1. the amount paid by the buyer does not exceed the amount paid by the seller
8 to his vendor in the acquisition of the article; and

9 2. the sale is made as an accommodation to the buyer to enable him to fill a
10 bona fide existing order of a customer or is made within fourteen (14) days to reimburse in kind a
11 previous accommodation sale by the buyer to the seller.

12
13 Provided, that where the seller holds himself or herself out as being regularly engaged in
14 the business of making sales at wholesale of such property, such sales shall be included in his
15 principal business activity, and not exempt from tax.

16
17 AA. Real Estate Brokers and associated brokers, agents, or salesmen. This chapter does
18 not apply to that portion of a real estate commission assigned to another brokerage office
19 pursuant to the division of revenue between the originating brokerage office and a cooperating
20 brokerage office on a particular transaction. Each brokerage office shall pay the tax upon its
21 respective revenue share of the transaction. Furthermore, where a brokerage office has paid the
22 business license tax on the gross commission earned by that brokerage office, associate brokers,
23 salesmen, or agents within the same office shall not be required to pay the tax upon their share of
24 the commission from the same transaction.
25

26 **5.45.100 Deductions.**
27
28

1 In computing the license fee or tax, the following may be deducted from the measure of
2 tax:

3 A. Membership fees and certain service fees by non-profit youth organization. For
4 purposes of this subsection, SMC 5.45.100 A, "non-profit youth organization" means a
5 non-profit organization engaged in character building of youth which is exempt from property tax
6 under RCW 84.36.030. In computing tax due under this chapter, there may be deducted from the
7 measure of tax all amounts received by a non-profit youth organization:
8

9 1. As membership fees or dues, irrespective of the fact that the payment of the
10 membership fees or dues to the organization may entitle its members, in addition to other rights
11 or privileges, to receive services from the organization or to use the organization's facilities; or
12

13 2. From members of the organization for camping and recreational services
14 provided by the organization or for the use of the organization's camping and recreational
15 facilities.
16

17 B. Fees, dues, charges. In computing tax, there may be deducted from the measure of tax
18 amounts derived from bona fide:

- 19 1. initiation fees;
20 2. dues;
21 3. contributions;
22 4. donations;
23 5. tuition fees;
24 6. charges made by a non-profit trade or professional organization for attending
25 or occupying space at a trade show, convention, or educational seminar sponsored by the
26
27
28

1 non-profit trade or professional organization, which trade show, convention, or educational
2 seminar is not open to the general public;

3 7. charges made for operation of privately operated kindergartens; and

4 8. endowment funds.

5
6 This subsection, SMC 5.45.100 B, shall not be construed to exempt any person,
7 association, or society from tax liability upon selling tangible personal property or upon
8 providing facilities or services for which a special charge is made to members or others. If dues
9 are in exchange for any significant amount of goods or services rendered by the recipient thereof
10 to members without any additional charge to the member, or if the dues are graduated upon the
11 amount of goods or services rendered, the value of such goods or services shall not be considered
12 as a deduction under this subsection.
13

14 C. Artistic and cultural organizations - income from business activities. In computing
15 tax, there may be deducted from the measure of tax those amounts received by artistic or cultural
16 organizations, as defined in SMC Section 5.30.020, which represent:
17

18 1. income derived from business activities conducted by the organization,
19 provided that this deduction does not apply to retail sales made by artistic and cultural
20 organizations (the rental of space and the casual sales of props and fixtures used in artistic
21 or culture productions will be exempt from tax);
22

23 2. amounts received from the United States or any instrumentality thereof or from
24 the State of Washington or any municipal corporation or subdivision thereof as
25 compensation for, or to support, artistic or cultural exhibitions, performances, or
26
27
28



1 programs provided by an artistic or cultural organization for attendance or viewing by the
2 general public; or

3 3. amounts received as tuition charges collected for the privilege of attending
4 artistic or cultural education programs.

5 D. Artistic or cultural organization - deduction for tax under the manufacturing
6 classification - value of articles for use in displaying art objects or presenting artistic or cultural
7 exhibitions, performances, or programs. In computing tax, there may be deducted from the
8 measure of tax by persons subject to payment of the tax under the manufacturing classification,
9 the value of articles to the extent manufacturing activities are undertaken by an artistic or cultural
10 organization, as defined in SMC Section 5.30.020, solely for the purpose of manufacturing
11 articles for use by the organization in displaying art objects or presenting artistic or cultural
12 exhibitions, performances, or programs for attendance or viewing by the general public.
13
14

15 E. Day care activities. In computing tax, there may be deducted from the measure of tax
16 amounts derived from day care activities (for periods less than 24 hours) by any organization
17 organized and operated for charitable, educational, or other purposes which is exempt from
18 taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
19 provided, however, that amounts derived from selling, altering or repairing tangible personal
20 property shall not be deductible.
21

22 F. Compensation from public entities for health or social welfare services-exception. In
23 computing tax, there may be deducted from the measure of tax amounts received from the United
24 States or any instrumentality thereof or from the State of Washington or any municipal
25 corporation or political subdivision thereof as compensation for, or to support, health or social
26
27
28



1 welfare services rendered by a health or social welfare organization (as defined in RCW
2 82.04.431) or by a municipal corporation or political subdivision, except deductions are not
3 allowed under this section for amounts that are received under an employee benefit plan. For
4 purposes of this subsection, SMC 5.45.100 (F), "employee benefit plan" includes the military
5 benefits program authorized in 10 U.S.C. Sec. 1071 et seq., as amended, or amounts payable
6 pursuant thereto.
7

8 G. Interest on investments or loans secured by mortgages or deeds of trust. In computing
9 tax, there may be deducted from the measure of tax by those engaged in banking, loan, security
10 or other financial businesses, amounts derived from interest received on investments or loans
11 primarily secured by first mortgages or trust deeds on non-transient residential properties.
12

13 H. Interest on obligations of the state, its political subdivisions, and municipal
14 corporations. In computing tax, there may be deducted from the measure of tax by those engaged
15 in banking, loan, security or other financial businesses, amounts derived from interest paid on all
16 obligations of the State of Washington, its political subdivisions, and municipal corporations
17 organized pursuant to the laws thereof.
18

19 I. Interest on loans to farmers and ranchers, producers or harvesters of aquatic products,
20 or their cooperatives. In computing tax, there may be deducted from the measure of tax amounts
21 derived as interest on loans to bona fide farmers and ranchers, producers or harvesters of aquatic
22 products, or their cooperatives by a lending institution which is owned exclusively by its
23 borrowers or members and which is engaged solely in the business of making loans and
24 providing finance-related services to bona fide farmers and ranchers, producers or harvesters of
25
26
27
28



1 aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing
2 farm-related or aquatic-related services to these individuals or entities.

3 J. Receipts from the sale of tangible personal property delivered outside the State. In
4 computing tax, there may be deducted from the measure of tax under retailing or wholesaling
5 amounts derived from the sale of tangible personal property that is received by the purchaser or
6 its agent outside the State of Washington.
7

8 K. Cash discount taken by purchaser. In computing tax, there may be deducted from the
9 measure of tax the amount of cash discount actually taken by the purchaser. This deduction is
10 not allowed in arriving at the taxable amount under the extracting or manufacturing
11 classifications with respect to articles produced or manufactured, the reported values of which,
12 for the purposes of this tax, have been computed according to the "value of product" provisions.
13

14 L. Credit losses of accrual basis taxpayers. In computing tax, there may be deducted
15 from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular
16 books of account are kept upon an accrual basis.
17

18 M. Repair, maintenance, replacement, etc., of residential structures and commonly held
19 property - eligible organizations.

20 1. In computing tax, there may be deducted from the measure of tax amounts
21 used solely for repair, maintenance, replacement, management, or improvement of the
22 residential structures and commonly held property, but excluding property where fees or
23 charges are made for use by the public who are not guests accompanied by a member,
24 which are derived by:
25
26
27
28

1 a. A cooperative housing association, corporation, or partnership from a
2 person who resides in a structure owned by the cooperative housing association, corporation, or
3 partnership;

4 b. An "association of apartment owners", as defined in RCW 64.32.010,
5 as now or hereafter amended, from a person who is an "apartment owner" as defined in RCW
6 64.32.010; or
7

8 c. An association of owners of residential property from a person who is a
9 member of the association. "Association of owners of residential property" means any
10 organization of all the owners of residential property in a defined area who all hold the same
11 property in common within the area.
12

13 2. For the purposes of this section "commonly held property" includes areas
14 required for common access such as reception areas, halls, stairways, parking, etc., and may
15 include recreation rooms, swimming pools and small parks or recreation areas; but is not
16 intended to include more grounds than are normally required in a residential area, or to include
17 such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating
18 areas, etc.
19

20 3. To qualify for the deductions under this section:

21 a. The salary or compensation paid to officers, managers, or employees must be
22 only for actual services rendered and at levels comparable to the salary or compensation of like
23 positions within the county wherein the property is located;
24

25 b. Dues, fees, or assessments in excess of amounts needed for the purposes for
26 which the deduction is allowed must be rebated to the members of the association; and
27
28



1 c. Assets of the association or organization must be distributable to all members
2 and must not inure to the benefit of any single member or group of members.

3 N. Sales at wholesale or retail of precious metal bullion and monetized bullion. In
4 computing tax, there may be deducted from gross income amounts derived from the sale at
5 wholesale or retail of precious metal bullion and monetized bullion. However, no deduction is
6 allowed of amounts received as commissions upon transactions for the accounts of customers
7 over and above the amount paid to other dealers associated in such transactions, and no
8 deduction or offset is allowed against such commissions on account of salaries or commissions
9 paid to salesmen or other employees.
10

11 O. Amounts representing rental of real estate for boarding homes. In computing
12 tax, there may be deducted from the measure of the tax amounts representing the value of the
13 rental of real estate for "boarding homes." To qualify for the deduction, the boarding home must
14 meet the definition of "boarding home" found in RCW 18.20.020, and must be licensed by the
15 State of Washington under RCW Chapter 18.20. The deduction shall be in the amount of
16 twenty-five (25) percent of the gross monthly billing when the boarder has resided within the
17 boarding home for longer than thirty (30) days.
18

19 P. Radio and television broadcasting - advertising agency fees - national,
20 regional, and network advertising - interstate allocations. In computing tax, there may be
21 deducted from the measure of the tax by radio and television broadcasters amounts representing
22 the following:
23

24 1. advertising agencies' fees when such fees or allowances are shown as a
25 discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount;
26
27
28



1 2. actual gross receipts from national network, and regional advertising or a
2 “standard deduction” as provided by RCW 82.04.280; and

3 3. local advertising revenue that represents advertising which is intended to reach
4 potential customers of the advertiser who are located outside the State of Washington.

5 The Director may issue a rule that provides detailed guidance as to how these deductions are to
6 be calculated.

7
8 Q. Amounts subject to an eligible gross receipts tax in another city on the same activity.

9 1. A person subject to tax in Seattle and also subject to an eligible gross receipts
10 tax on the same activity in one or more other jurisdiction(s) may deduct from the measure of the
11 tax on such activity those amounts the person used in measuring the eligible gross receipts tax
12 paid to the other jurisdiction where delivery of the product or the performance of the activity
13 occurred, or, if delivery or performance does not occur in the other jurisdiction, or no tax was
14 paid, then the measure is assigned to where the customer is located. If neither delivery or
15 performance occurs, or the customer is not located, within the jurisdiction imposing an eligible
16 gross receipts tax, then the Director shall determine, pursuant to his authority under SMC
17 5.55.170, whether a deduction is allowed. In all cases, if no eligible gross receipts tax is paid to
18 another jurisdiction on such activity, then no deduction is allowed.

19
20
21 2. Notwithstanding subsection (Q)(1) above, a person that is subject to an eligible
22 gross receipts tax in more than one jurisdiction on the gross income derived from intangibles
23 such as royalties, trademarks, patents, or goodwill may deduct from the measure of the tax those
24 amounts of gross income used in measuring the eligible gross receipts tax paid to the other
25 jurisdiction where the headquarters is located. If tax is not paid where the headquarters is
26
27
28



1 located, then the Director shall determine, pursuant to his authority under SMC Section 5.55.170,
2 whether a deduction is allowed.

3 R. Person manufacturing products within and without. In computing tax, a person
4 manufacturing products within the City using products the person manufactured outside the City
5 may deduct from the measure of the manufacturing tax the value of products manufactured
6 outside the City and included in the measure of an eligible gross receipts tax paid with respect to
7 manufacturing such products.
8

9 S. Taxes collected as trust funds by the taxpayer from a third party for payment to the
10 taxing jurisdiction. In computing tax, the taxpayer may deduct from the measure of the tax
11 amounts collected for the benefit of the taxing jurisdiction by the taxpayer from third parties to
12 satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.
13

14 T. Constitutional prohibitions. In computing tax, there may be deducted from the
15 measure of the tax amounts derived from business which the City is prohibited from taxing under
16 the Constitution of the State of Washington or the Constitution of the United States.
17

18 U. Distribution Affiliate or Cooperative. In computing tax, there may be deducted from
19 the measure of the tax an amount equal to the actual cost of the merchandise that a distribution
20 cooperative or its distribution affiliate sells to a customer-owner of the distribution cooperative
21 for the customer-owner's resale at retail. Actual cost means the cost actually paid by the
22 distribution cooperative or distribution affiliate after taking into account all cash discounts and
23 other price reductions.
24

25
26
27 **5.45.105 High Technology Manufacturer Research and Development Credit.**



1 (Expires December 31, 2006)

2
3 A. In computing the manufacturing tax imposed under this chapter, a credit is
4 allowed for each person whose qualified research and development expenditures during the year
5 for which the credit is claimed exceeds five percent of the person's taxable amount during the
6 same calendar year.

7
8 B. The credit is equal to the amount of qualified research and development
9 expenditures made during the calendar year multiplied by .67 percent. The amount of the credit
10 shall not exceed the amount of manufacturing tax due for the same calendar year in which the
11 credit is claimed reduced by any credit against the manufacturing tax allowed under SMC
12 Section 5.45.070.

13
14 C. Each person claiming the credit shall file an affidavit, as prescribed by the
15 director, with the tax return on which the credit is claimed. Such affidavit shall state the amount
16 of the credit claimed, an estimate of the anticipated qualified research and development
17 expenditures during the calendar year for which the credit is claimed, an estimate of the taxable
18 amount during the same calendar year, and such additional information as the director may
19 prescribe.

20
21 D. Any person claiming the credit, and then failing to meet the five percent
22 requirement contained in subsection A, shall be liable for payment of the taxes represented by the
23 amount of the credit claimed, together with interest, but not penalties. Interest shall be due at the
24 rate provided for in SMC 5.55.090 B retroactively to the date the credit was claimed until the
25 taxes are paid.
26

1 E. For the purpose of this section, the following definitions apply:

2
3 1. "Advanced computing", "Advanced materials", "Biotechnology", "Electronic
4 device technology", and "Environmental technology" have the same meanings as contained in
5 RCW 82.63.010.

6
7 2. "Qualified research and development expenditures" means expenses paid or
8 accrued by persons in the businesses of advanced computing, advanced materials, biotechnology,
9 electronic device technology, or environmental technology solely for research and development
10 activities conducted within the City, and for no other purpose. The term "qualified research and
11 development expenditures" does not include costs that a person is required to capitalize rather
12 than expense for federal income tax purposes. "Qualified research and development
13 expenditures" include expenses for wages, benefits, supplies, and materials. The term does not
14 include costs for land, or structures or other depreciable property, because those costs must be
15 capitalized. Nor does the term include costs for overhead, indirect management or supervision,
16 accounting, or other costs not incurred solely for research and development activities. "Qualified
17 research and development expenditures" also means eighty percent of the charges paid to another
18 person for research and development activities conducted within the City but only if the
19 expenditure is (1) made pursuant to a written agreement between the parties stating the type of
20 research and development to be conducted, and (2) recognized by the person claiming the credit
21 in the calendar year in which the research and development is conducted. Qualified research and
22 development expenditures are expenditures for research and development activities that are
23 conducted within the City whether by the person seeking the credit or a third party. Expenditures
24
25
26
27
28



1 for research and development activities conducted outside the City do not meet the definition of
2 “qualified research and development expenditures.”

3 3. “Research and development activities” means activities conducted within the
4 City for the purpose of discovering technological information intended to be useful in the
5 development and manufacture of a new or improved product, process, technique, formula,
6 invention, or canned software that will be held for sale, lease or license. The activities must
7 relate to the development of a new or improved function, performance, reliability, or quality.
8 The term includes exploration of a new use for an existing drug, device, or biological product if
9 the new use requires separate licensing by the federal food and drug administration under chapter
10 21, C.F.R., as now existing or hereafter amended. Research and development is completed when
11 the product can be produced commercially. Research and development activities are not: (a)
12 Activities related to style, taste, cosmetic or seasonal design factors; (b) Post commercial
13 production testing; (c) Activities related to adapting a product or substance to a particular
14 customer’s needs; (d) Duplication or reproduction activities; (e) Conducting or preparing surveys
15 or studies relating to efficiency, management, market research, or testing or development, (f)
16 Advertising and promotions, (g) Collecting routine data not related to the development effort, (h)
17 Routine quality control testing or inspection not related to the development effort; (i)
18 Development of computer software intended for the use of the developer and not shared or used
19 by persons other than the developer; and (j) Funded research.

24 4. “Taxable amount” means the gross amount subject to the manufacturing tax
25 imposed in this chapter and required to be reported on the person’s business and occupation tax
26
27
28



1 return during the calendar year for which the credit is claimed, less any gross amount on which a
2 tax allowed as a credit against manufacturing tax under SMC Section 5.45.070 is calculated.

3 **5.45.110 Application to City's business activities.**

4 Any department, division, employee association, or other subsection of the City that
5 engages in any business activity which if engaged in by any person would, under this chapter or
6 SMC Chapter 5.55, require a business license and the payment of any tax or fee shall make
7 application, file returns, and pay any taxes or fees imposed by this chapter or SMC Chapter 5.55.
8

9 **5.45.120 Tax part of operating overhead.**

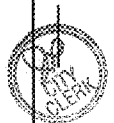
10 It is not the intention of this chapter that the taxes or fees herein levied upon persons
11 engaging in business be construed as taxes or fees upon the purchasers or customer, but that such
12 taxes or fees shall be levied upon, and collectible from, the person engaging in the business
13 activities herein designated and that such taxes or fees shall constitute a part of the operating
14 overhead or cost of doing business of such persons.
15

16
17
18 **5.45.130 Severability.**

19 If any part, provision or section of this chapter is held to be void or unconstitutional, all
20 other parts, provisions, and sections of this chapter not expressly so held to be void or
21 unconstitutional shall continue in full force and effect.
22

23 **SECTION 3.** Effective January 1, 2002, a new Chapter 5.30 is added to Title 5 of the
24 Seattle Municipal Code as follows:

25 **5.30.010 Definition provisions.**
26
27
28



1 b. "Farmer" means any person engaged in the business of growing or producing,
2 upon the person's own lands or upon the lands in which the person has a present right of
3 possession, any agricultural product whatsoever for sale. "Farmer" does not include a person
4 using such products as ingredients in a manufacturing process, or a person growing or producing
5 such products for the person's own consumption. "Farmer" does not include a person selling any
6 animal or substance obtained therefrom in connection with the person's business of operating a
7 stockyard or a slaughter or packing house. "Farmer" does not include any person in respect to the
8 business of taking, cultivating, or raising timber.
9

10 3. **"Amusement device."** Any machine or device which provides recreation or
11 entertainment for which a charge is made for use or play, and includes, but is not limited to, pool
12 and billiard tables, shuffleboards, music machines, video games, pinball games, riding devices,
13 panoram and peepshow devices, televisions and devices for display of pictures or views on film;
14 provided, that it does not mean or include any machine or device used exclusively for the
15 vending of merchandise.
16

17 4. **"Artistic or cultural organization."** The term "artistic or cultural organization"
18 means an organization which is organized and operated exclusively for the purpose of providing
19 "artistic or cultural exhibitions, presentations, or performances or cultural or art education
20 programs," as defined in subsection (c), below, of this subsection, for viewing or attendance by
21 the general public. The organization must be either:
22

- 23 a. A "nonprofit tax exempt organization" as defined in SMC 5.40.010; or
24 b. A not-for-profit corporation under RCW Chapter 24.03 that meets all of the
25 following criteria:
26
27
28



1 i. The organization must be managed by a governing board of not less
2 than eight (8) individuals none of whom is a paid employee of the organization or by a
3 corporation sole under RCW Chapter 24.12.

4 ii. No part of the organization's income may be paid directly or indirectly
5 to its members, stockholders, officers, directors, or trustees except in the form of services
6 rendered by the organization in accordance with its purposes and bylaws.

7 iii. Salary or compensation paid to its officers and executives must be
8 only for actual services rendered, and at levels comparable to the salary or compensation of like
9 positions within the state.

10 iv. Assets of the organization must be irrevocably dedicated to the
11 activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment
12 by the organization, may not inure directly or indirectly to the benefit of any member or
13 individual except a non-profit organization, association, or corporation which also would be
14 entitled to the exemption.

15 v. The organization must be duly licensed or certified when licensing or
16 certification is required by law or regulation.

17 vi. The amounts received that qualify for exemption must be used for the
18 activities for which the exemption is granted.

19 vii. Services must be available regardless of race, color, national origin, or
20 ancestry.

21 c. The term "artistic or cultural exhibitions, presentations, or performances or
22 cultural or art education programs" is limited to:
23
24



- i. An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;
- ii. A musical or dramatic performance or series of performances;
- iii. An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject; or
- iv. An event conducted by a "nonprofit tax exempt organization," as defined in SMC 5.40.010, which is exempt from the admission tax pursuant to SMC 5.40.

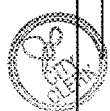
5. "**Bona-fide charitable organization**" means an organization that meets all of the requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated primarily to provide charitable services as defined by WAC 230-02-160. This term is used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.

6. "**Bona-fide nonprofit organization**" means an organization that meets all of the requirements of RCW 9.46.0209. This term is used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.

5.30.025 Definitions, C-E.

1. "**Cash discount**" means a deduction from the invoiced amount allowed by the seller if the bill is paid within a certain time period or before a specified date.

2. "**Cellular telephone service**" is a voice or data telephone/telecommunications system based in whole or substantial part on wireless radio communications, whether or not the communications are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal



1 communications services (PCS), and any other evolving wireless radio communications
2 technology which accomplishes the same purpose as cellular mobile service.

3 3. **"City"** means the City of Seattle.

4 4. **"Commercial or industrial use"** means the following uses of products, including
5 by-products, by the extractor or manufacturer thereof:

6 a. Any use as a consumer;

7 b. Any use in the manufacturing of products including articles, substances or
8 commodities; or

9 c. Consigning, shipping or transferring extracted or manufactured products to
10 another either without consideration or in the performance of contracts.

11 5. **"Competitive telephone service"** means the providing by any person of
12 telecommunications equipment or apparatus, directory advertising and lease of telephone street
13 directories, or service related to that equipment or apparatus such as repair or maintenance
14 service, if the equipment or apparatus is of a type which may be provided by persons not subject
15 to regulation as telephone companies under RCW Title 80, and for which a separate charge is
16 made. Transmission of communication through cellular telephones is classified as "telephone
17 business" rather than "competitive telephone service."
18

19 6. **"Construction, Demolition and Land Clearing Waste"** (or **"CDL Waste"**) has the
20 meaning given in SMC Section 21.36.012.

21 7. **"Consumer"** means the following:

22 a. Any person who purchases, acquires, owns, holds, or uses any tangible or
23 intangible personal property irrespective of the nature of the person's business and including,
24



1 among others, without limiting the scope hereof, persons who install, repair, clean, alter,
2 improve, construct, or decorate real or personal property of or for a consumer other than for the
3 purpose of:

4 i. resale as tangible or intangible personal property in the regular course of
5 business;

6 ii. incorporating such property as an ingredient or component of real or
7 personal property when installing, repairing, cleaning, altering, imprinting, improving,
8 constructing, or decorating such real or personal property of or for consumers;

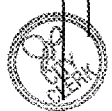
9 iii. incorporating such property as an ingredient or component of a new
10 product or as a chemical used in processing a new product when the primary purpose of such
11 chemical is to create a chemical reaction directly through contact with an ingredient of a new
12 product; or

13 iv. consuming the property in producing ferrosilicon which is
14 subsequently used in producing magnesium for sale, if the primary purpose of such property is to
15 create a chemical reaction directly through contact with an ingredient of ferrosilicon;

16 b. Any person engaged in any business activity taxable under SMC Section
17 5.45.050 F;

18 c. Any person who purchases, acquires, or uses any competitive telephone service
19 as herein defined, other than for resale in the regular course of business;

20 d. Any person who purchases, acquires, or uses any personal, business, or
21 professional service defined as a retail sale in SMC Section 5.30.050 other than for resale in the
22 regular course of business;



1 e. Any person who is an end user of software;

2 f. Any person engaged in the business of "public road construction," as that term
3 is defined in SMC Section 5.30.040, in respect to tangible personal property when that person
4 incorporates the tangible personal property as an ingredient or component of a publicly-owned
5 street, place, road, highway, easement, right-of-way, mass public transportation terminal or
6 parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or
7 upon the right-of-way of a publicly-owned street, place, road, highway, easement, bridge, tunnel,
8 or trestle or in or upon the site of a publicly-owned mass public transportation terminal or
9 parking facility;
10

11 g. Any person who is an owner, lessee or has the right of possession to or an
12 easement in real property which is being constructed, repaired, decorated, improved, or otherwise
13 altered by a person engaged in business;
14

15 h. Any person who is an owner, lessee, or has the right of possession, of personal
16 property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered
17 by a person engaged in business;
18

19 i. Any person engaged in "government contracting," as that term is defined in
20 SMC Section 5.30.035. Any such person shall be a consumer within the meaning of this
21 subsection in respect to tangible personal property incorporated into, installed in, or attached to
22 such building or other structure by such person;
23

24 j. Any person who is a lessor of machinery and equipment, the rental of which is
25 exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the
26 sale of or charge made for tangible personal property consumed in respect to repairing the
27



1 machinery and equipment, if the tangible personal property has a useful life of less than one (1)
2 year.

3 Nothing contained in this or any other subsection of this section shall be construed to modify any
4 other definition of "consumer."

5
6 8. "**Customer-owner**," with respect to a distribution cooperative, means a person a)
7 having an ownership interest in the distribution cooperative, b) who purchases merchandise for
8 sale at retail from the distribution cooperative or its distribution affiliate, and c) who is entitled to
9 distributions made by the distribution cooperative.

10
11 9. "**Deficiency**" means the amount of tax imposed by law less any tax reported by the
12 taxpayer on a tax return.

13
14 10. "**Director**" means the Director of Finance of the City or any officer, agent or
15 employee of the City designated to act on the Director's behalf.

16
17 11. "**Distribution affiliate**" means a partnership, limited liability company, or other
18 entity that sells merchandise to the customer-owners of the distribution cooperative and which is
19 owned 50 percent or more by the distribution cooperative.

20
21 12. "**Distribution cooperative**" means a person a) that itself sells, or owns fifty (50)
22 percent or more of a distribution affiliate that sells, merchandise to its customer-owners for resale
23 at retail, b) in which two-thirds of the aggregate outstanding voting ownership interest is owned
24 by its customer-owners, c) that makes distributions to its customer-owners at least partly on the
25 basis of patronage, and d) that qualifies for federal income tax purposes under the provisions of
26 subchapter T of the Internal Revenue Code of 1986, as amended.

27
28 **5.30.030 Definitions, E-F.**

1 1. **“Eligible gross receipts tax”** means a tax which:

2 a. Is imposed on the act or privilege of engaging in business activities within SMC
3 Section 5.45.050;

4 b. Is measured by the gross volume of business in terms of gross receipts, and is not
5 an income tax or value added tax;

6 c. Is not, pursuant to law or custom, separately stated from the sales price;

7 d. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax
8 measured by volume or weight, or concession charge, or payment for the use and enjoyment
9 of property, property right or a privilege; and
10

11 e. Is a tax imposed by a local jurisdiction, and not by a Country, State, Province,
12 or any other non-local jurisdiction above the county level.
13

14 2. **“Engaging in business” – “nexus.”**

15 a. The term **“engaging in business activity”** means commencing, conducting, or
16 continuing in the City any activity with the object of gain, benefit, or advantage to the person,
17 either directly or indirectly. It includes the exercise of corporate or franchise powers, design,
18 research, and development activities, and liquidating a business when the liquidators thereof hold
19 themselves out to the public as conducting such business.
20

21 b. Examples of engaging in business activity. This subsection sets forth
22 examples of activities that constitute engaging in business. The activities listed in this section
23 are illustrative only and are not intended to narrow the definition of “engaging in business” in
24 subsection (a), above. If an activity is not listed, whether it constitutes engaging in business in
25 the City is to be determined by considering all the facts and circumstances. (Refer to the
26
27
28



1 definition of "nexus" in (e.) below.) Without being all inclusive, any one of the following
2 activities, whether performed itself or by its employees, agents, representatives, independent
3 contractors, brokers or others acting on its behalf constitutes engaging in business and requires a
4 person to register and obtain a business license:

5 i. Owning, renting, leasing, maintaining, or having the right to use, or
6 using, tangible personal or real property permanently or temporarily located in the City;

7 ii. Owning, renting, leasing, using, or maintaining, an office, place of
8 business, or other establishment in the City;

9 iii. Soliciting sales;

10 iv. Making repairs or providing maintenance or service to real or tangible
11 personal property, including warranty work and property maintenance;

12 v. Providing technical assistance or service, including quality control,
13 product inspections, warranty work, or similar services on or in connection with tangible
14 personal property sold by the person or on its behalf;

15 vi. Installing, constructing, or supervising installation or construction of,
16 real or tangible personal property;

17 vii. Soliciting, negotiating, or approving franchise, license, or other
18 similar agreements;

19 viii. Collecting current or delinquent accounts;

20 ix. Picking up and transporting tangible personal property, construction
21 debris, or excavated materials;



1 x. Providing disinfecting and pest control services, employment and labor
2 pool services, home nursing care, janitorial services, appraising, landscape architectural services,
3 security system services, surveying, and real estate services including the listing of homes and
4 managing real property;

5 xi. Rendering professional services such as those provided by
6 accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes,
7 barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court
8 reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians; or
9

10 xii. Meeting with customers or potential customers, even when no sales or
11 orders are solicited at the meetings.
12

13 xiii. The following activities if performed in the City on a non-minimal
14 basis (ten (10) or more days within a twelve (12) month calendar year):

15 (a) Conducting training or other educational services for
16 employees, agents, representatives, independent contractors, brokers or others;

17 (b) Investigating, resolving, or otherwise assisting in resolving
18 customer complaints;
19

20 (c) In-store stocking or manipulating products or goods, sold to
21 and owned by a customer, regardless of where sale and delivery of the goods took place;
22

23 (d) Delivering goods in vehicles owned, rented, leased, used, or
24 maintained by the person who sold the goods or another acting on its behalf.

25 c. Notwithstanding subsections (a) and (b), a person performing one or more of
26 the following activities in the City, whether itself or by its employees, agents, representatives,
27

1 independent contractors, brokers or others acting on its behalf, is not required to register and
2 obtain a business license **provided that it engages in no other business activities in or with**
3 **the City:**

- 4 i. Meeting with suppliers of goods and services as a customer;
- 5 ii. Meeting with government representatives in their official capacity,
6 other than those performing contracting or purchasing functions;
- 7 iii. Attending meetings, such as board meetings, retreats, seminars, and
8 conferences, or other meetings wherein the person does not provide training in connection with
9 tangible personal property sold by the person or on its behalf;
- 10 iv. Renting tangible or intangible property as a customer when the
11 property is not used in the City;
- 12 v. Attending, but not participating in, a "trade show." Persons
13 participating at a trade show shall review the City's trade show ordinance, SMC Chapter 6.20;
- 14 vi. Conducting advertising through the mail; or
- 15 vii. Soliciting sales by phone from a location outside the City.

16 d. A seller located outside the City merely delivering goods into the City by
17 means of common carrier is not required to register and obtain a business license provided that it
18 engages in no other business activities in the City.

19 e. "Nexus." A person has created nexus with the City if, whether itself or by its
20 employees, agents, representatives, independent contractors, brokers or others acting on its
21 behalf, it:

- 22 i. is physically present in the City;



1 ii. endeavors to maintain a share of the market within the City; or,

2 iii. avails itself of the economic benefits of the City.

3 The City expressly intends that nexus extend to the limits otherwise allowed by
4 law and the constitutions of the United States and the State of Washington. Nexus is
5 presumed to continue as long as the taxpayer maintains sales or services that resulted
6 from the original nexus generating contact.
7

8 3. **“Extractor”** means every person who from the person's own land or from the land of
9 another under a right or license granted by lease or contract, either directly or by contracting with
10 others for the necessary labor or mechanical services, for sale or for commercial or industrial use,
11 mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or
12 other natural resource product; or fells, cuts or takes timber, Christmas trees, other than
13 plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates, or raises
14 shellfish, or other sea or inland water foods or products. "Extractor" does not include persons
15 performing under contract the necessary labor or mechanical services for others; persons
16 cultivating or raising fish entirely within confined rearing areas on the person's own land or on
17 land in which the person has a present right of possession; or persons who fell, cut, or take
18 plantation Christmas trees from the person's own land or from land in which the person has a
19 present right of possession.
20
21

22 **5.30.035 Definitions, G-M.**

23 1. **“Garbage”** has the meaning given in SMC Section 21.36.014.

24 2. **“Government contracting”** means the constructing, repairing, decorating, or
25 improving of new or existing buildings or other structures under, upon or above real property of
26
27

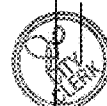


1 or for the United States, any instrumentality thereof, or a county or city housing authority created
2 pursuant to RCW Chapter 35.82, including the installing or attaching of any article of tangible
3 personal property therein or thereto, whether or not such personal property becomes a part of the
4 realty by virtue of installation. The term shall include the clearing of land and the moving of
5 earth of or for the United States, any instrumentality, thereof, or a county or city housing
6 authority.
7

8 3. **“Gross gambling receipts”** means the monetary value that would be due to any
9 operator of a gambling activity for any chance taken, other participation fees, any rental or lease
10 fees for amusement games received by a commercial amusement game operation, as evidenced
11 by required records. The value shall be stated in U.S. currency, before any deductions for prizes
12 or any other expenses. In the absence of records, gross gambling receipts shall be the maximum
13 that would be due to an operator from that particular activity if operated at maximum capacity.
14

15 4. **“Gross income of the business”** means the value proceeding or accruing by reason of
16 the business activity engaged in and includes gross proceeds of sales, compensation for the
17 rendition of services, gains realized from trading in stocks, bonds, or other evidences of
18 indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other
19 emoluments however designated, all without any deduction on account of the cost of tangible
20 property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or
21 any other expense whatsoever paid or accrued and without any deduction on account of losses.
22
23

24 5. **“Gross proceeds of sales”** means the value proceeding or accruing from the sale of
25 tangible or intangible personal property or for services rendered, without any deduction on
26 account of the cost of property sold, the cost of materials used, labor costs, interest, discount
27
28



1 paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any
2 deduction on account of losses.

3 6. **“In this City,” “within this City.”** “In this City” or “within this City” includes all
4 federal areas lying within the corporate city limits of the City.

5 7. **“Janitorial Services.”** The term "janitorial services" shall mean those cleaning and
6 care taking services ordinarily performed by commercial janitor service businesses including, but
7 not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of
8 rugs, drapes and upholstery. The term does not include painting, papering, repairing, furnace or
9 septic tank cleaning, snow removal, sandblasting, or cleanup related to construction activities.
10

11 8. **“Manufacturer,” “to manufacture.”**

12 a. "Manufacturer" means every person who, either directly or by contracting with
13 others for the necessary labor or mechanical services, manufactures for sale or for
14 commercial or industrial use from his or her own materials or ingredients any
15 products. When the owner of equipment or facilities furnishes, or sells to the
16 customer prior to manufacture, all or a portion of the materials that become a part
17 or whole of the manufactured product, the Director shall prescribe equitable rules
18 for determining tax liability. A business not located in this City that is the owner
19 of materials or ingredients processed for it in this City by a processor for hire shall
20 be deemed to be engaged in business as a manufacturer in this City.
21

22 b. “To manufacture” embraces all activities of a commercial or industrial nature
23 wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a
24
25
26
27
28



1 result thereof a new, different or useful product of tangible personal property is produced for sale
2 or commercial or industrial use, and shall include:

- 3 i. the production of special-made articles or custom-made articles;
4 ii. the development, production, or duplication of canned software
5 programs including the development, production, or duplication of master copies;
6 iii. the production of dental appliances, devices, restorations, substitutes,
7 or other dental laboratory products by a dental laboratory or dental technician;
8 iv. crushing and/or blending of rock, sand, stone, gravel, or ore; and
9 v. the producing of articles for sale, or for commercial or industrial use
10 from raw materials or prepared materials by giving such materials, articles, and
11 substances of trade or commerce new forms, qualities, properties or combinations
12 including, but not limited to, such activities as making, fabricating, processing,
13 refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving,
14 canning, and the preparing and freezing of fresh fruits and vegetables.
15
16
17

18 **5.30.040 Definitions, N-R.**

19 **1. "Newspaper," "magazine," "periodical."**

20 a. "Newspaper" means a publication offered for sale regularly at stated intervals
21 at least once a week and printed on newsprint in tabloid or broadsheet format folded
22 loosely together without stapling, glue, or any other binding of any kind.
23

24 b. "Magazine or periodical" means any printed publication, other than a
25 newspaper, issued and offered for sale regularly at stated intervals at least once every
26
27
28



1 three (3) months, including any supplement or special edition of the publication. Any
2 publication meeting this definition qualifies regardless of its content.

3 2. **“Net gambling receipts”** means all gross gambling receipts from any gambling
4 activity, less the monetary value or, in the case of merchandise, the actual cost, of any prizes that
5 were awarded.
6

7 3. **“Non-profit organization”** means an organization in which no part of the income can
8 be distributed to its members, directors, or officers and that holds a current tax exempt status as
9 provided under Sec. 501(c)(3) of the Internal Revenue Code of 1986, as amended, or is
10 specifically exempted from the requirement to apply for tax exempt status under Sec. 501(c)(3).
11

12 4. **“Office,” “place of business.”** “Office” or “place of business” means a fixed location
13 or permanent facility where the regular business of the person is conducted and which is either
14 owned by the person or over which the person exercises legal dominion and control. The regular
15 business of the person is presumed conducted at a location:
16

- 17 a. Whose address the person uses as its business mailing address;
18 b. Containing a telephone line listed in a public telephone directory or other
19 similar publication under the business name;
20 c. Where the person holds itself out to the general public as conducting its regular
21 business through signage or other means; and
22 d. Where the person is required to obtain any appropriate state and local business
23 license or registration unless exempted by law from such requirement.
24

25 A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or
26 place of business. A post office box is not an office or place of business.
27

1 If a person has an office or place of business, the person's home is not an office or place
2 of business unless it meets the criteria for office or place of business above. If a person has no
3 office or place of business, the person's home or apartment within the City will be deemed the
4 place of business.

5
6 5. **"Pager Service"** means service provided by means of an electronic device that has the
7 ability to send or receive voice or digital messages transmitted through the local telephone
8 network, via satellite or any other form of voice or data transmission.

9
10 6. **"Person"** means any individual, receiver, administrator, executor, assignee, trustee in
11 bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company,
12 business trust, municipal corporation, political subdivision of the State of Washington,
13 corporation, limited liability company, association, society, or any group of individuals acting as
14 a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or
15 any instrumentality thereof.

16
17 7. **"Precious metal bullion or monetized bullion."**

18 a. "Precious metal bullion" means any precious metal which has been put through
19 a process of smelting or refining, including, but not limited to, gold, silver, platinum,
20 rhodium, and palladium, and which is in such state or condition that its value depends
21 upon its contents and not upon its form.

22
23 b. For purposes of this section, "monetized bullion" means coins or other forms
24 of money manufactured from gold, silver, or other metals and heretofore, now, or
25 hereafter used as a medium of exchange under the laws of this state, the United States, or
26



1 any foreign nation, but does not include coins or money sold to be manufactured into
2 jewelry or works of art.

3 8. **“Processing for hire”** means the performance of labor and mechanical services upon
4 materials or ingredients belonging to others so that as a result a new, different or useful product
5 is produced for sale, or commercial or industrial use. A processor for hire is any person who
6 would be a manufacturer if that person were performing the labor and mechanical services upon
7 that person’s own materials or ingredients. If a person’s own materials or ingredients equal
8 twenty (20) percent or more of the total value of all materials or ingredients that become a part of
9 the finished product, the person will be deemed to be a manufacturer and not a processor for hire.
10

11
12 9. **“Product,” “byproduct.”**

13 a. **“Product”** means tangible personal property, including articles, substances, or
14 commodities created, brought forth, extracted, or manufactured by human or mechanical
15 effort.

16
17 b. **“Byproduct”** means any additional product, other than the principal or intended
18 product, which results from extracting or manufacturing activities and which has a market
19 value, without regard to whether or not such additional product was an expected or
20 intended result of the extracting or manufacturing activities.

21
22 10. **“Public road construction”** means the building, repairing, or improving of any
23 street, place, road, highway, easement, right-of-way, mass public transportation terminal or
24 parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political
25 subdivision of the state or by the United States and which is used or to be used primarily for foot
26 or vehicular traffic including mass transportation vehicles of any kind.
27



1 11. **“Recovered material”** means a usable or marketable product or commodity that
2 results from recycling or material owned or acquired from another, but excludes use for landfill
3 or incineration.

4 12. **“Recyclable”** means material:

5 a. That is collected for recycling or reuse, such as papers, glass, plastics, used
6 wood, sand, building debris, metals, yardwaste, used oil and tires; and
7

8 b. That if not collected for recycling would otherwise be destined for disposal at a
9 landfill or incineration.

10 13. **“Recycled material”** means material:

11 a. That is in fact recycled, re-used, or reprocessed after collection; and

12 b. If not recycled, re-used or reprocessed, would have been destined for disposal
13 at a landfill or incineration.
14

15 14. **“Recycling.”** "Recycling" has the meaning given in SMC Section 21.36.016.

16 15. **“Reporting period,” “Monthly,” “Quarterly,” “Annual.”**

17 The “reporting period” means one of the following:
18

19 a. a one-month period beginning the first day of each calendar month
20 (“monthly”);

21 b. a three-month period beginning the first day of January, April, July or October
22 of each year (“quarterly”); or
23

24 c. a twelve-month period beginning the first day of January of each year
25 (“annual”).
26

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

4 17. **"Royalties"** means compensation for the use of intangible property, such as
5 copyrights, patents, licenses, franchises, trademarks, tradenames, and similar items.
6

7 18. **"Rubbish"** has the meaning given in SMC Section 21.36.016.

8 **5.30.050 Definitions, S-V.**

9 1. **"Sale," "casual or isolated sale."**

10 a. "Sale" means any transfer of the ownership of, title to, or possession of,
11 property for a valuable consideration and includes any activity classified as a "sale at
12 retail" or "retail sale." It includes renting or leasing, conditional sale contracts, leases
13 with option to purchase, and any contract under which possession of the property is given
14 to the purchaser but title is retained by the vendor as security for the payment of the
15 purchase price. It also includes the furnishing of food, drink, or meals for compensation
16 whether consumed upon the premises or not.
17

18 b. "Casual or isolated sale" means a sale made by a person who is not engaged in
19 the business of selling the type of property involved on a routine or continuous basis.
20

21 2. **"Sale at retail," "retail sale."**

22 a. "Sale at retail" or "retail sale" means every sale of tangible personal property
23 (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of
24 their business.
25

26 b. "Sale at retail" or "retail sale" includes the following:
27
28



1 i. The sale of tangible personal property used
2 or consumed or to be used or consumed in the performance of any
3 activity classified as a "sale at retail" or "retail sale" even though
4 such property is resold or utilized as provided in (a), (b), (c), (d), or
5 (e) of subsection c i of this definition following such use.
6

7 ii. The sale of tangible personal property to persons engaged in any
8 business taxable under SMC 5.45.050 F.

9 iii. The sale of or charge made for tangible personal property consumed
10 and/or labor and services rendered in respect to the following:

11 (a) The installing, repairing, cleaning, altering, imprinting, or
12 improving of tangible personal property of or for consumers, including charges made for the
13 mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated
14 laundry facilities when such facilities are situated in an apartment house, rooming house, or
15 mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry
16 service to non-profit health care facilities, and excluding services rendered in respect to live
17 animals, birds and insects;
18

19 (b) The constructing, repairing, decorating, or improving of new or
20 existing buildings or other structures under, upon, or above real property of or for consumers,
21 including the installing or attaching of any article of tangible personal property therein or thereto,
22 whether or not such personal property becomes a part of the realty by virtue of installation;
23

24 (c) The constructing, repairing, or improving any structure upon,
25 above, or under any real property owned by an owner who conveys the property by title,
26
27
28



1 possession, or any other means to the person performing such construction, repair, or
2 improvement for the purpose of performing such construction, repair, or improvement and the
3 property is then re-conveyed by title, possession, or any other means to the original owner;

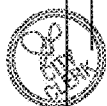
4 (d) The clearing of land and the moving of earth excepting the
5 mere leveling of land used in commercial farming or agriculture, and shall include the cleaning,
6 fumigating, razing or moving of existing buildings or structures, but shall not include the charge
7 made for "janitorial services;"
8

9 (e) The towing of automobiles or other vehicles;

10 (f) The furnishing of lodging and all other services, except the
11 provision of network telephone services, by a hotel, rooming house, tourist court, motel, trailer
12 camp, and the granting of any similar license to use real property, as distinguished from the
13 renting or leasing of real property, and it shall be presumed that the occupancy of real property
14 for a continuous period of one month or more constitutes a rental or lease of real property and not
15 a mere license to use or enjoy the same;
16

17 iv. The sale of or charge made for tangible personal property, labor and
18 services to persons taxable under (a), (b), (c), (d), (e) and (f) of subsection b iii when such sales
19 or charges are for property, labor and services which are used or consumed in whole or in part by
20 such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even
21 though such property, labor and services may be resold after such use or consumption.
22

23 v. The sale of or charge made for personal, business, or professional
24 services including amounts designated as interest, rents, fees, admission, service charges, and
25
26
27
28



1 other service emoluments however designated, received by persons engaging in the following
2 business activities:

3 (a) Amusement and recreation services including but not limited
4 to golf, pool, billiards, skating, bowling, ski lifts and tows, day tours, and others, when provided
5 to consumers;

6 (b) Abstract, title insurance, and escrow services;

7 (c) Credit bureau services;

8 (d) Automobile parking and storage garage services;

9 (e) Landscape maintenance and horticultural services but
10
11

12 excluding:

13 (i) horticultural services provided to farmers and

14 (ii) pruning, trimming, repairing, removing, and clearing of
15 trees and brush near electric transmission or distribution lines or equipment, if performed by or at
16 the direction of an electric utility;

17 (f) Service charges associated with selling tickets to professional
18 sporting events; or

19 (g) The following personal services: physical fitness services,
20 tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort
21 services, and dating services.
22

23
24 vi. The renting or leasing of tangible personal property to consumers and
25 the rental of equipment with an operator.
26
27
28

1 vii. The providing of competitive telephone service to consumers, as
2 defined in RCW 82.04.065.

3 viii. The sale, licensing, rental, or any other charge made for the transfer
4 or use of canned software regardless of the method of delivery to the end user, including the right
5 to reproduce and use the software under original equipment manufacturer's ("OEM") licenses,
6 but not the sale of custom software, customization of canned software, or the sale of other
7 retained rights in software.
8

9 ix. The sale of or charge made for "Public road construction," as defined
10 in SMC Section 5.30.040.

11 x. The sale of or charge made for "Government contracting," as defined in
12 SMC Section 5.30.035, and any sales to any government entity.
13

14 c. Notwithstanding subsections 5.30.050 (2)(a) and (b), above, "sale at retail" or
15 "retail sale" does not include:

16 i. A sale to a person who presents a resale certificate under RCW
17 82.04.470 and who:

18 (a) Purchases tangible personal property in the regular course of
19 business for the purpose of resale without intervening use by such person;
20

21 (b) Installs, repairs, cleans, alters, imprints, improves, constructs,
22 or decorates real or personal property of or for consumers, if such tangible personal property
23 becomes an ingredient or component of such real or personal property without intervening use by
24 such person;
25
26
27
28



1 (c) Purchases for the purpose of consuming the property purchased
2 in producing for sale a new article of tangible personal property or substance, of which such
3 property becomes an ingredient or component or is a chemical used in processing, when the
4 primary purpose of such chemical is to create a chemical reaction directly through contact with
5 an ingredient of a new article being produced for sale;
6

7 (d) Purchases for the purpose of consuming the property
8 purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale,
9 if the primary purpose of such property is to create a chemical reaction directly through contact
10 with an ingredient of ferrosilicon; or
11

12 (e) Purchases for the purpose of providing the property to
13 consumers as part of competitive telephone service.

14 The activities contained in SMC subsection 5.30.050 (2)(c)(i) shall be taxed under the
15 wholesaling classification (SMC 5.45.050 (C)).

16 ii. The sale of services or charges made for cleaning up for the United
17 States, or its instrumentalities, radioactive waste and other by-products of weapons production
18 and nuclear research and development. Nor shall the term include the sale of or charge made for
19 labor and services rendered for environmental remedial action as defined in RCW 82.04.2635(2).
20 These activities shall be taxed under the "other business activity" classification (SMC 5.45.050
21 (F)).
22
23

24 **3. "Sale at wholesale," "wholesale sale."**

25 "Sale at wholesale" or "wholesale sale" means any "retail sale," as defined herein, to a
26 person, other than a consumer, for the purpose of resale. Sale at wholesale also includes the sale
27
28

1 of network telephone service to a telecommunications company as defined in RCW 80.04.010 for
2 the purpose of resale, as contemplated by RCW 35.21.715.

3 Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not
4 include a distribution cooperative's or its distribution affiliate's sales of merchandise to a
5 customer-owner of the distribution cooperative for the customer-owner's resale at retail. A
6 distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section
7 5.45.050(F) of the Seattle Municipal Code

8
9 4. "Software," "canned software," "custom software," "customization of canned
10 software," "master copies," "retained rights."

11
12 a. "Canned software" means software that is created for more than one (1) person.
13 For purposes of this chapter, canned software is deemed to be tangible personal property
14 regardless of the method of delivery—tangible media (i.e. disk or installed on hardware) or
15 intangible (i.e. electronically over telecommunications paths).

16 b. "Custom software" means software created for a single person.

17
18 c. "Customization of canned software" means any alteration, modification, or
19 development of applications using or incorporating canned software to specific individualized
20 requirements of a single person. Customization of canned software includes individualized
21 configuration of software to work with other software and computer hardware but does not
22 include routine installation. Customization of canned software does not change the underlying
23 character or taxability of the original canned software.

24
25 d. "Master copies" of software means copies of software from which a software
26 developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale
27

1 or license. The software encoded on a master copy and the media upon which the software
2 resides are both ingredients of the master copy.

3 e. "Retained rights" means any and all rights, including intellectual property
4 rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned
5 or are held under contract or license by a software developer, author, inventor, publisher,
6 licensor, sublicensor, or distributor.
7

8 f. "Software" means any information, program, or routine, or any set of one (1) or
9 more programs, routines, or collections of information used, or intended for use, to convey
10 information that causes one or more computers or pieces of computer-related peripheral
11 equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the
12 associated documentation, materials, or ingredients regardless of the media upon which that
13 documentation is provided, that describes the code and its use, operation, and maintenance and
14 that typically is delivered with the code to the consumer. All software is classified as either
15 canned or custom.
16

17
18 5. "Solid waste" has the meaning given in SMC Section 21.36.016.

19 6. "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or
20 disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the
21 ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise,
22 inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a
23 contract shall be deemed a successor to any contractor defaulting in the performance of any
24 contract as to which such person is a surety or guarantor.
25

26 **5.30.060 Definitions, T-Z.**
27
28

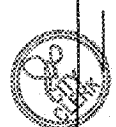


1 1. **"Tax year," "taxable year."** "Tax year" or "taxable year" means the calendar year.

2 2. **"Taxpayer"** means any "person," as herein defined, required by SMC Chapter 5.55 to
3 have a business license, or liable for any license, tax, or fee, or for the collection of any tax or
4 fee, under SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business
5 and Occupation Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), or who engages in any
6 business or who performs any act for which a tax or fee is imposed under those chapters.
7

8 3. **"Telephone business"** means the providing by any person of access to a local
9 telephone network, local telephone network switching service, toll service, cellular or mobile
10 telephone service, coin telephone services, pager service, or the providing of telephonic, video,
11 data, or similar communication, or transmission for hire, via a local telephone network, toll line
12 or channel, cable, microwave, or similar communication or transmission system. The term
13 includes cooperative or farmer line telephone companies or associations operating exchanges.
14 The term also includes the provision of transmission to and from the site of an internet provider
15 via a local telephone network, toll line or channel, cable, microwave, or similar communication
16 or transmission system. "Telephone business" does not include the providing of competitive
17 telephone service, or providing of cable television service, or other providing of broadcast
18 services by radio or television stations.
19
20

21 4. **"Tour operator business"** means a business activity of purchasing various travel
22 components, such as transportation, lodging, meals and other associated services and reselling
23 the same to consumers where the purchaser/reseller is liable itself to pay the vendor of the
24 components purchased and does not make payment solely as an agent for the consumer.
25
26
27
28



1 5. **"Tuition fee"** includes library, laboratory, health service and other special fees, and
2 amounts charged for room and board by an educational institution when the property or service
3 for which such charges are made is furnished exclusively to the students or faculty of such
4 institution. "Educational institution," as used in this section, means only those institutions
5 created or generally accredited as such by the state and includes educational programs that such
6 educational institution cosponsors with a non-profit organization, as defined by Section 501(c)(3)
7 of the Internal Revenue Code of 1986, as amended, if such educational institution grants college
8 credit for coursework successfully completed through the educational program, or an approved
9 branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW,
10 and in accordance with RCW 82.04.4332 or defined as a degree-granting institution under RCW
11 28B.85.010(3) and accredited by an accrediting association recognized by the United States
12 secretary of education, and offering to students an educational program of a general academic
13 nature or those institutions which are not operated for profit and which are privately endowed
14 under a deed of trust to offer instruction in trade, industry, and agriculture, but not including
15 specialty schools, business colleges, other trade schools, or similar institutions.
16
17
18

19 6. **"Value proceeding or accruing"** means the consideration, whether money, credits,
20 rights, or other property expressed in terms of money, actually received or accrued. The term
21 shall be applied, in each case, on a cash receipts or accrual basis according to which method of
22 accounting is regularly employed in keeping the books of the taxpayer. The Director may
23 provide by regulation that the value proceeding or accruing from sales on the installment plan
24 under conditional contracts of sale may be reported as of the dates when the payments become
25 due.
26
27
28



1 **7. "Value of products, how determined."**

2 a. The value of products, including by-products, extracted or manufactured, shall be
3 determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale
4 or at retail, to which shall be added all subsidies and bonuses received from the purchaser or
5 from any other person with respect to the extraction, manufacture, or sale of such products or
6 by-products by the seller.

7
8 b. Where such products, including by-products, are extracted or manufactured for
9 commercial or industrial use; and where such products, including by-products, are shipped,
10 transported or transferred out of the City, or to another person, without prior sale or are sold
11 under circumstances such that the gross proceeds from the sale are not indicative of the true
12 value of the subject matter of the sale, the value shall correspond as nearly as possible to the
13 gross proceeds from sales in this state of similar products of like quality and character, and in
14 similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable
15 by the purchaser or by any third person with respect to the extraction, manufacture, or sale of
16 such products. In the absence of sales of similar products as a guide to value, such value may be
17 determined upon a cost basis. In such cases, there shall be included every item of cost
18 attributable to the particular article or article extracted or manufactured, including direct and
19 indirect overhead costs. The Director may prescribe uniform and equitable rules for the purpose
20 of ascertaining such values.
21
22
23

24 8. "Yardwaste" has the meaning given in SMC Section 21.36.016.

25 **5.30.070 Severability.**
26
27
28



1 If any part, provision or section of this chapter is held to be void or unconstitutional, all other
2 parts, provisions, and sections of this chapter not expressly so held to be void or unconstitutional
3 shall continue in full force and effect.

4 **SECTION 4.** Effective January 1, 2002, a new Chapter 5.55 is added to Title 5 of the Seattle
5 Municipal Code as follows:

6
7 **5.55.010 Application of chapter stated.**

8 Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall
9 apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32
10 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business and Occupation Tax), 5.48
11 (Utility Tax), and 5.52 (Gambling Tax) and under other titles, chapters, and sections in such
12 manner and to such extent as indicated in each such title, chapter or section.
13

14 **5.55.020 Definitions.**

15 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
16 applicable to this chapter except as expressly stated to the contrary herein.
17

18 **5.55.030 License requirements.**

19 A. No person, unless specifically exempted, shall engage in any business activity,
20 profession, trade, or occupation in the City without having first obtained and being the holder of
21 a valid and subsisting license to do so, to be known as a "business license." The fee for the
22 business license shall be Seventy-five Dollars (\$75.00) for persons engaging in any business
23 activity, profession, trade, or occupation in the City prior to July 1st, and Thirty-seven Dollars and
24 Fifty Cents (\$37.50) for persons beginning their activity on or after July 1st. The fee shall
25
26
27
28

1 accompany the application for the license. The business license shall expire at the end of the
2 calendar year for which it is issued.

3 The business license shall be personal and nontransferable except as provided in
4 subsection (G), below. Applications for the business license shall be made to the Director of
5 Finance on forms provided by the Director. Each business license shall be numbered, shall show
6 the name, place and character of the business of the licensee, and such other information as the
7 Director deems necessary, and shall at all times be conspicuously posted in the place of business
8 for which it is issued.
9

10 If the licensee changes the place of business, the licensee shall return the business license
11 to the Director and a new license shall be issued for the new place of business free of charge.
12

13 B. When business is transacted at two (2) or more separate places by one (1) taxpayer, a
14 separate business license for each place at which business is transacted with the public shall be
15 required. A Ten Dollar (\$10.00) license fee shall be imposed and accompany each application
16 for the business license required for each additional business location.
17

18 C. No person to whom a business license has been issued pursuant to this chapter shall
19 suffer or allow any other person for whom a separate license is required to operate under or
20 display his or her license; nor shall such other person operate under or display such license.
21

22 D. As provided in SMC Section 6.20.040, a participant at an event, identified in the list
23 supplied by the promoter or organizer, shall be exempt from the minimum fee established by
24 subsection (A), above, or the fee for a separate business location established by subsection (B),
25 above, on account of business activities at the licensed event for the duration of the license.
26
27
28



1 E. Any business license may be renewed by the payment for the ensuing year of
2 the license fee herein prescribed on or before the date of the expiration of such
3 license. Any licensee who fails to make payment on or prior to the expiration date of
4 said business license shall be subject to penalties in the following amounts:

5 1. Five Dollars (\$5.00) if not received on or before the due date;

6 2. Ten Dollars (\$10.00) if not received on or before the last day
7 of the month following the due date.

8 3. Twenty Dollars (\$20.00) if not received on or before the last
9 day of the second month following the due date.

10 4. All business licenses issued subsequent to the initial license
11 period shall be deemed renewal licenses if there has been no discontinuance of
12 the licensee's operations or activities. Nonpayment of business license fees
13 and taxes when due by the licensee during the term of any license shall
14 constitute grounds for revocation or suspension of said license.
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 F. Licenses for amusement devices will be in addition to this business license and will be
2 assessed pursuant to SMC Section 5.32.170. It is unlawful for any person to own any amusement
3 device, which is available for use by the public, without having first obtained an amusement
4 device license issued in accordance with the provisions of this chapter and SMC Chapter 5.32.
5 The license shall be attached to the amusement device at all times when in use or play or
6 available for use or play so that it is readily visible. The amusement device license will be
7 prorated semi-annually in the same manner as the business license, however the amusement
8 device license expires annually on November 30th.

10 G. A business license or amusement device license cannot be assigned or transferred,
11 except that a license may be transferred:

- 13 1. To the surviving or new corporation, whenever the licensed corporation is
14 merged or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;
- 15 2. To the surviving partner, or to a new partnership which consists exclusively of
16 the surviving partners, whenever one (1) partner of a licensed partnership dies;
- 17 3. To the surviving spouse, whenever one (1) spouse of a licensed marital
18 community dies;
- 19 4. To any one (1) or more former partners, whenever a licensed partnership is
20 dissolved and one (1) or more of the former partners of the licensed partnership continue the
21 operation of the business as an individual proprietorship or partnership without the addition of
22 any new partner, and all of the other former partners consent in writing to the transfer of the
23 license, which written consent shall be filed with the application for such transfer;
- 24
- 25
- 26
- 27
- 28



1 5. To one (1) spouse, whenever a licensed marital community is dissolved and the
2 other spouse consents in writing to the transfer of the license, which written consent shall be filed
3 with the application for such transfer;

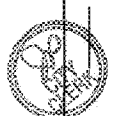
4 6. In case of the death of any licensee before the expiration of his or her license,
5 his or her administrator or executor, duly appointed as such by order of court, may continue to act
6 under said license for the unexpired term thereof upon filing with the City proof of such
7 appointment.
8

9 As used in this subsection, SMC 5.55.030(G), the term "partnership" includes joint venture, and
10 the term "partner" includes a co-venturer.
11

12 5.55.040 When due and payable - Reporting periods – Monthly, quarterly, and
13 annual returns – Threshold provisions – Computing time periods - Failure to file returns.

14 A. Other than any annual license fee or registration fee assessed under this chapter, the
15 tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45
16 (Business and Occupation Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and
17 payable in quarterly installments. At the Director's discretion, businesses may be assigned to a
18 monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes
19 imposed by SMC Section 5.52.030(A)(2) and (B)(2) for punchboards and pulltabs shall be due
20 and payable in monthly installments. Tax payments are due on or before the last day of the next
21 month following the end of the assigned reporting period covered by the return.
22
23

24 B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms
25 as prescribed by the Director. The return shall be signed by the taxpayer personally or by a
26
27
28



1 responsible officer or agent of the taxpayer. The individual signing the return shall swear or
2 affirm that the information in the return is true and complete.

3 C. Tax returns must be filed and returned by the due date whether or not any tax is owed.
4 Returns not received on or before the due date are subject to penalties and interest in accordance
5 with this chapter.

6
7 D. For purposes of the tax imposed by SMC Chapter 5.45, any person who reasonably
8 estimates that the value of products, gross proceeds of sales, or gross income of the business, as
9 the case may be, subject to tax after all allowable deductions, will be less than Fifty Thousand
10 Dollars (\$50,000) in the current calendar year may file a declaration so stating on a form supplied
11 by the Director at the same time he or she files his or her application for a business license or a
12 renewal. The Director may assign any person who files such declaration to an annual reporting
13 basis. Regardless of reporting period assigned, any person whose value of products, gross
14 proceeds of sales, or gross income of the business, subject to tax after all allowable deductions,
15 does not exceed the threshold amount in the current calendar year, shall file a return, declare no
16 tax due on their return, and submit the return to the Director. The gross receipts and deduction
17 amounts shall be entered on the tax return even though no tax may be due.
18

19
20 E. A taxpayer who commences to engage in business activity shall file a return and pay
21 the tax or fee for the portion of the reporting period during which he or she is engaged in
22 business activity subject to the conditions set forth in subsection D, above.
23

24 F. Except as otherwise specifically provided by any other provision of this chapter, in
25 computing any period of days prescribed by this chapter the day of the act or event from which
26 the designated period of time runs shall not be included. The last day of the period shall be
27
28



1 included unless it is a Saturday, Sunday, or legal holiday, in which case the last day of such
2 period shall be the next succeeding day which is neither a Saturday, Sunday, or legal holiday.

3 G. If any taxpayer fails, neglects or refuses to make his or her return as and when
4 required in this chapter, the Director is authorized to determine the amount of the tax or fees
5 payable by obtaining facts and information upon which to base his or her estimate of the tax or
6 fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax
7 owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of
8 tax so determined, together with any penalty, interest, and fees due; the total of such amounts
9 shall thereupon become immediately due and payable.
10

11
12 **5.55.050 Payment methods - Mailing returns or remittances - Time extension -**
13 **Deposits – Recording payments - Payment must accompany return – NSF checks.**

14 A. Taxes shall be paid to the Director in United States currency by bank draft, certified
15 check, cashier's check, personal check, money order, cash, or by wire transfer or electronic
16 payment if such wire transfer or electronic payment is authorized by the Director. If payment so
17 received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is
18 tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such
19 payment had not been tendered. Acceptance of any sum by the Director shall not discharge the
20 tax or fee due unless the amount paid is the full amount due.
21

22
23 B. A return or remittance which is transmitted to the City by United States mail shall be
24 deemed filed or received on the date shown by the cancellation mark stamped by the Post Office
25 upon the envelope containing it. The Director may allow electronic filing of returns or
26
27
28

1 remittances from any taxpayer. A return or remittance that is transmitted to the City
2 electronically shall be deemed filed or received according to procedures set forth by the Director.

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

5 D. The Director shall keep full and accurate records of all funds received or refunded.
6
7 The Director shall apply payments first against all license fees, then penalties, then interest
8 owing, and finally upon the tax, without regard to any direction of the taxpayer.

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

12 F. Any payment made that is returned for lack of sufficient funds or for any other reason
13 will not be considered received until payment by certified check, money order, or cash of the
14 original amount due, plus a "non-sufficient funds" (NSF) charge of Twenty Dollars (\$20.00) is
15 received by the Director. Any license issued upon payment with a NSF check will be considered
16 void, and shall be returned to the Director. No license shall be reissued until payment (including
17 the Twenty Dollars (\$20.00) NSF fee) is received.
18

19 G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but
20 failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns
21 and making payment of the taxes or fees, when and as due under this chapter.
22

23
24 **5.55.060 Records to be preserved - Examination - Estoppel to question**
25 **assessment.**
26



1 A. Every person liable for any fee or tax imposed by this chapter, SMC Chapters 5.32,
2 5.40, 5.45, 5.48, and 5.52 shall keep and preserve, for a period of five (5) years after filing a tax
3 return, such records as may be necessary to determine the amount of any fee or tax for which the
4 person may be liable; which records shall include copies of all federal income tax and state tax
5 returns and reports made by the person. All places of business, books, records, papers, invoices,
6 ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of
7 merchandise, and other data, including federal income tax and state tax returns, and reports
8 needed to determine the accuracy of any taxes due, shall be open for inspection or examination at
9 any time by the Director or a duly authorized agent.
10

11 B. If a person does not keep the necessary books and records within the City, it shall be
12 sufficient if such person:
13

- 14 1. produces within the City such books and records as may be required by the
15 Director, or
- 16 2. bears the cost of examination by the Director's agent at the place where such
17 books and records are kept; provided that the person electing to bear such cost shall pay in
18 advance to the Director the estimated amount thereof including round-trip fare, lodging, meals
19 and incidental expenses, subject to adjustment upon completion of the examination.
20

21 C. Any person who fails, or refuses a Department request, to provide or make available
22 records or information contained in subsection A, shall be forever barred from questioning in
23 any court action, the correctness of any assessment of taxes made by the City based upon any
24 period for which such books, records, and invoices have not been so kept and preserved. The
25 Director is authorized to determine the amount of the tax or fees payable by obtaining facts and
26
27
28



1 information upon which to base the estimate of the tax or fees due. Such fee or tax assessment
2 shall be deemed prima facie correct and shall be the amount of tax owing the City by the
3 taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined,
4 together with any penalty, interest, and fees due; the total of such amounts shall thereupon
5 become immediately due and payable.

7 **5.55.070 Accounting methods.**

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

12 B. The taxes imposed and the returns required, hereunder, shall be upon a calendar year
13 basis.

15 **5.55.080 Public work contracts - Payment of fee and tax before final payment
16 for work.**

17 The Director, before issuing any final payment to any person performing any public work
18 contract for the City, may require such person to pay in full all license fees or taxes due under
19 SMC Title 5 from such person on account of such contract or otherwise, and may require such
20 taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or
21 materials to the person in connection with said public work.
22
23
24
25
26
27
28



1 **5.55.090 Underpayment of tax, interest, or penalty - Interest - Limitations.**

2 A. If, upon examination of any returns, or from other information obtained by the
3 Director, it appears that an amount of tax less than that properly due has been paid, the Director
4 shall add interest thereto as provided in subsection B of this section. Interest shall be added to
5 delinquent tax only and shall not be calculated upon penalty or interest.
6

7 B. Interest calculations on underpayments:

8 1. Interest on underpayments of taxes for periods prior to the effective date of this
9 ordinance, shall be computed from the date of underpayment until paid at a rate of ten (10)
10 percent per year on the balance due.
11

12 2. Interest on underpayments of taxes for periods beginning on or after the
13 effective date of this ordinance shall be computed from the last day of the month following the
14 end of the reporting period and will continue to accrue until payment is made. In case of a
15 deficiency assessment the interest shall be computed from the first day of the month following
16 each calendar year or portion thereof included in the audit period. The rate of interest to be
17 charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C.
18 Sec. 1274(d) plus two (2) percentage points. The rate shall be computed by taking an
19 arithmetical average to the nearest percentage point of the federal short-term rate, compounded
20 annually, for the months of January, April, July, and October of the year immediately preceding
21 the calendar year as published by the United States Secretary of the Treasury. The rate shall be
22 adjusted on the first day of January of each year for use in computing interest for that calendar
23 year.
24
25

26 **5.55.095 Time in which assessment may be made.**

1 The Director shall not assess, or correct an assessment of, additional taxes or assessable
2 penalties more than four (4) years after the close of the calendar year in which they were due with
3 the following exceptions:

4 1. Against a person who is not currently registered or licensed or has not filed a
5 tax return as required by this chapter, for taxes due within the period commencing ten (10) years
6 prior to the close of the calendar year in which the person was contacted in writing by the
7 Director;
8

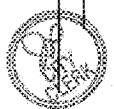
9 2. Against a person that has committed fraud or who misrepresented a material
10 fact, for all taxes due; or
11

12 3. Against a person that has executed a written waiver of such limitations, for
13 taxes due within the period authorized by the waiver.

14 The Director shall notify the person by mail of the amount of the deficiency, which shall
15 become due and shall be paid within thirty (30) days from the date of the notice, or within such
16 time as the Director may provide in writing.
17

18 **5.55.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest**
19 **rate - Statute of limitations.**

20 A. If, upon receipt of an application for a refund, or during an audit or examination of the
21 taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or
22 interest paid is in excess of that properly due, the excess amount shall be credited to the
23 taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection (B) of
24 this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four
25
26
27
28



1 (4) years prior to the beginning of the calendar year in which the refund application is made or
2 examination of records is completed.

3 B. The execution of a written waiver, pursuant to SMC 5.55.095, shall extend the time
4 for applying for, or making, a refund or credit of any taxes paid during, or attributable to, the
5 years covered by the waiver if, prior to the expiration of the waiver period, an application for
6 refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is
7 due.
8

9 C. Refunds shall be made by means of vouchers approved by the Director and by the
10 issuance of a City check, warrant, or wire transfer drawn upon and payable from such funds as
11 the City may provide.
12

13 D. Any final judgment for which a recovery is granted by any court of competent
14 jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same
15 manner, as provided in subsection (C) of this section, upon the filing with the Director a certified
16 copy of the order or judgment of the court.
17

18 E. Interest calculation on refunds or overpayments.

19 1. No interest shall be allowed on any refund or credit granted for tax periods
20 ending prior to September 5, 1999.

21 2. Interest on overpayments of taxes for periods beginning on or after September
22 5, 1999 and ending prior to January 1, 2002 shall be computed at five (5) percent per annum.
23

24 3. Interest on overpayments of taxes for periods beginning on or after January 1,
25 2002, shall be the federal short term interest rate for underpayments under SMC 5.55.090 (B)
26 less two (2) percentage points.
27
28

1
2 **5.55.110 Late payment - Disregard of written instructions - Evasion - Penalties.**

3 A. If the Director does not receive payment of any tax shown as due on a return filed by a
4 taxpayer, the Director shall add a penalty equal to the greater of five (5) percent of the amount of
5 the tax, or Ten Dollars (\$10.00); and if the tax is not received on or before the last day of the
6 month following the due date, the Director shall add a total penalty equal to the greater of ten
7 (10) percent of the amount of the tax, or Fifteen Dollars (\$15.00); and if the tax is not received
8 on or before the last day of the second month following the due date, the Director shall add a
9 total penalty equal to the greater of twenty (20) percent of the amount of the tax, or Twenty
10 Dollars (\$20.00).
11
12

13 B. If payment of any tax deficiency assessed by the Director is not received by the due
14 date specified in the notice, or any extension thereof, the Director shall add a penalty equal to the
15 greater of ten (10) percent of the amount of the additional tax found due, or Ten Dollars (\$10.00).
16

17 C. If a citation or criminal complaint is issued by the Director for the collection of taxes,
18 fees, assessments, interest, or penalties, there shall be added thereto a penalty of ten (10) percent
19 of the amount due, but not less than Twenty Dollars (\$20.00).
20

21 D. If the Director determines that all or any part of a deficiency resulted from the
22 taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a
23 penalty of twenty-five (25) percent of the amount of the additional tax due.

24 1. A taxpayer fails to follow specific written tax reporting instructions when the
25 Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer
26 fails to act in accordance with those instructions. The Director shall not assess the penalty under
27
28

1 this subsection, SMC 5.55.110(D), upon any taxpayer that has made a good faith effort to comply
2 with the specific written instructions provided by the Director to that taxpayer.

3 2. Specific written instructions may be given as a part of a tax assessment, audit,
4 determination, or closing agreement, provided that such specific written instructions shall apply
5 only to the taxpayer addressed or referenced on such documents.
6

7 3. Any specific written instructions by the Director shall be clearly identified as
8 such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer
9 to the penalties imposed by this subsection.

10 E. If the Director finds that all or any part of the deficiency resulted from an intent to
11 evade the tax payable, the Director shall assess a penalty of fifty (50) percent of the additional tax
12 found to be due.
13

14 F. The aggregate of penalties imposed under subsections A and B, above, of this section
15 shall not exceed thirty (30) percent of the tax due, and shall not be less than Twenty Dollars
16 (\$20.00). This subsection does not prohibit or restrict the application of other penalties
17 authorized by law.
18

19 G. The penalties authorized by subsections D and E of this section shall be assessed in
20 accordance with the provisions of this chapter governing assessment of tax deficiencies. The
21 Director shall not impose both the evasion penalty and the penalty for disregarding specific
22 written instructions on the same tax found to be due.
23
24
25
26
27
28



1
2 **5.55.130 Taxpayer quitting business - Liability of successor.**

3 A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of
4 his business or his stock of goods, any tax payable hereunder shall become immediately due and
5 payable. Such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.
6

7 B. Any person who becomes a successor shall be liable for the full amount of any tax
8 owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due
9 to the City from the taxpayer until such time as:

10 1. the taxpayer shall produce a receipt from the City showing payment in full of
11 any tax due or a certificate that no tax is due; or

12 2. more than six (6) months has passed since the successor notified the Director
13 of the acquisition and the Director has not issued and notified the successor of an
14 assessment.
15

16 C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment
17 upon the purchase price. If such payment is greater in amount than the purchase price, the
18 amount of the difference shall become a debt due such successor from the taxpayer.
19

20 D. Notwithstanding the above, if a successor gives written notice to the Director of the
21 acquisition, and the Department does not within six (6) months of the date it received the notice
22 issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the
23 successor shall not be liable for the tax.
24
25
26
27
28

1 **5.55.140 Review of Director's Assessment or Denial of Refund.**

2 A. Any person, except one who has failed to provide or to keep and preserve books,
3 records, and invoices as required in this chapter, aggrieved by the amount of the tax, fee, or
4 penalty assessed by the Director of Finance, or by the denial of a refund by the Director of
5 Finance, may, having paid any tax, fee, interest or penalty owing, except as provided in
6 subsection C below:
7

8 1. Appeal the Director's deficiency assessment or refund denial to the
9 Hearing Examiner by filing a petition for review with the Office of the Hearing Examiner; or

10 2. File a complaint in King County Superior Court for refund of taxes paid.

11 The petition or complaint shall be filed within thirty (30) days from the date that the assessment
12 or denial notice was mailed to the taxpayer, or within the period covered by any extension of said
13 due date granted in writing by the Director of Finance. The Director of Finance may extend the
14 due date for filing an appeal with the Hearing Examiner or a refund suit with the Superior Court
15 only if the taxpayer, within the thirty (30) day period, makes written application showing good
16 cause why an extension is necessary.
17
18

19 B. The Director's assessment or refund denial shall be regarded as prima facie correct,
20 and the person shall have the burden to prove that the tax assessed or paid by him is incorrect,
21 either in whole or in part, and to establish the correct amount of tax.
22

23 C. Except as provided in SMC 5.55.150(B), assessments totaling less than Fifty
24 Thousand Dollars (\$50,000) (including penalty and interest) may be appealed to the Hearing
25 Examiner without prior payment.
26
27
28



1 D. The methods for obtaining review of the Director's assessment or refund denial set
2 forth in this section are exclusive, and must be strictly complied with.

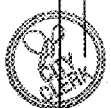
3
4 **5.55.150 Appeal to the Hearing Examiner.**

5 A. A person electing to appeal to the Hearing Examiner must provide a copy of the
6 petition to the Director of Finance and the City Attorney on or before the date the petition is filed
7 with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided
8 to the Director of Finance and City Attorney within the thirty (30) day period, and a complaint is
9 not filed, the assessment covered by the notice shall become final and no refund request may be
10 made for the audit period covered in that assessment.
11

12 B. The petition shall set forth the reasons why the assessment should be reversed or
13 modified. The petition shall also include the amount of the tax, fee, interest, or penalties that the
14 taxpayer believes to be due. If the assessment is less than Fifty Thousand Dollars (\$50,000) the
15 taxpayer shall pay that portion of the assessment, if any, conceded to be due. If the appeal is
16 from the denial of a refund, the petition shall set forth the amount of refund or credit the taxpayer
17 believes to be due.
18

19 C. The Hearing Examiner shall fix the time and place of the hearing and notify the
20 taxpayer thereof by mail. The hearing shall be conducted in accordance with the procedures for
21 hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle
22 Municipal Code).
23

24 D. The Hearing Examiner may, by subpoena, require the attendance of any person at
25 the hearing, and may also require him or her to produce pertinent books and records. Any person
26
27
28



1 served with such a subpoena shall appear at the time and place therein stated and produce the
2 books and records required, if any, and shall testify truthfully under oath administered by the
3 Hearing Examiner as to any matter required of him or her pertinent to the appeal; and it shall be
4 unlawful for him or her to fail or refuse to do so. The City Attorney shall seek enforcement of a
5 Hearing Examiner subpoena in an appropriate court.
6

7 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or
8 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or
9 modification is proper if the Director's assessment or refund denial violates the terms of this
10 chapter, or SMC Chapters 5.30, 5.32, 5.40, 5.45, 5.48, or 5.52.
11

12 **5.55.160 Judicial Review of the Hearing Examiner's Decision.**

13 A. The taxpayer, any other person beneficially interested, or the Director of Finance, may
14 obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review
15 in the King County Superior Court within fourteen (14) days from the date of the decision in
16 accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law and court
17 rules.
18

19 B. The decision of the Hearing Examiner shall be final and conclusive unless review is
20 sought in compliance with this section.
21

22 **5.55.165 Director to make rules.**

23 The Director shall have the power and it shall be his or her duty, from time to time, to
24 adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC
25 Chapters 5.30, 5.32, 5.40, 5.44, 5.48, 5.52, or with law for the purpose of carrying out the
26
27
28



1 provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such
2 rule or regulation.

3
4 **5.55.170 Ancillary authority of Director.**

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

7 A. To conduct an audit or a joint audit of a taxpayer by using an auditor employed by the
8 City of Seattle, another city, or a contract auditor; provided, that such contract auditor's pay is
9 not in any manner based upon the amount of tax assessed;

10
11 B. To allocate or apportion the gross proceeds of sales, gross receipts, or gross income of
12 the business, or taxes due from any person that is required to pay an eligible gross receipts tax to
13 more than one Washington city; or

14
15 C. To apply the City's tax prospectively where a taxpayer has no office or place of
16 business within the City and has paid tax on all gross income to another Washington city where
17 the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and
18 the income was not derived from contracts with the City.

19
20 **5.55.180 Mailing of Notices.**

21 Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent
22 by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of
23 the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not
24 release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such
25 failure operate to extend any time limit set by the provisions of this chapter. It is the
26
27
28

1 responsibility of the taxpayer to inform the Director in writing of a change in the taxpayer's
2 address.

3
4 **5.55.190 Tax declared additional.**

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

8
9 **5.55.200 Public disclosure – Confidentiality - Information sharing.**

10 A. For purposes of this section, unless a different meaning is clearly established by
11 context, the following definitions apply:

12 1. "Disclose" means to make known to any person in any manner.

13 2. "Tax information" means:

14 a. a taxpayer's identity;

15 b. the nature, source, or amount of the taxpayer's income, payments,
16 receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over
17 assessments, or tax payments, whether taken from the taxpayer's books and records or any other
18 source;

19 c. whether the taxpayer's return was, is being, or will be examined or
20 subject to other investigation or processing; or

21 d. other data received by, recorded by, prepared by,
22 or provided to the Director with respect to a taxpayer.
23
24
25
26
27
28



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

3 B. Tax returns and information are "public records" as that term is defined in RCW
4 42.17.020. The Director shall not disclose tax information if disclosure would violate RCW
5 Chapter 42.17 or any other law prohibiting disclosure.

6 C. Tax information may be disclosed to the following:

7
8 1. The Mayor, members of the City Council, City Attorney, City Clerk, or their
9 authorized designees, for official purposes;

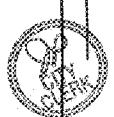
10 2. Any agency or officer of the United States of America, the State of
11 Washington, or a tax department of any state, county, city or town, provided that the agency or
12 officer grants substantially similar privileges to the City, and further provided that the agency or
13 officer shall not further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

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

16 E. A person disclosing tax information to a person not entitled to receive that
17 information under this section is guilty of a misdemeanor, and if the person violating this privacy
18 requirements is an officer or employee of the City, such person may be required to forfeit their
19 office or employment.

20
21
22 **5.55.210 Tax constitutes debt.**

23 Any license fee or tax due and unpaid under this chapter, and all interest and penalties
24 thereon, shall constitute a debt to the City of Seattle and may be collected in the same manner as
25 any other debt in like amount, which remedy shall be in addition to all other existing remedies.
26
27
28



5.55.220 Unlawful actions - Violation - Penalties.

A. It shall be unlawful for any person liable for amounts due under this chapter, or SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52, or any lawful rule or regulation adopted by the Director;

2. To make or manufacture any license required by this chapter except upon order of the Director;

3. To make any false statement on any license application or tax return;

4. To aid or abet any person in any attempt to evade payment of a license fee or tax;

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52;

6. To fail to appear or testify in response to a subpoena issued pursuant to SMC 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.40, 5.45, 5.48 and 5.52;

7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter; or

8. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52.



1 The decision of the Hearing Examiner shall be final. The licensee and/or the Director may
2 seek review of the decision of the Hearing Examiner to the Superior Court of Washington in and
3 for King County within fourteen (14) days from the date of the decision.

4 C. Upon revocation of any license no portion of the license fee shall be returned to the
5 licensee.
6

7 **5.55.235 License not obtained.**

8 License fees shall be collected for the application year only, except in the case of a person
9 found to be engaged in business in the City without a license. Demands for any license fees or
10 penalties due as a result of failure to obtain and maintain a license as provided for under this
11 subchapter may be made by the Director within ten (10) years after the close of the calendar year
12 in which the same accrued.
13

14 **5.55.240 Closing agreement provisions.** The Director may enter into an
15 agreement in writing with any person relating to the liability of such person in respect of any tax
16 imposed by any of the chapters within this title and administered by the Director for any taxable
17 period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and
18 the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax
19 immunity covered thereby, and, except upon a showing of fraud or malfeasance, or
20 misrepresentation of a material fact:
21

22 A. The case shall not be reopened as to the matters agreed upon, or the agreement
23 modified, by the Director or the taxpayer; and
24
25
26
27
28



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

4 **5.55.250 Charge-off of uncollectible taxes.** The Director may charge off any tax,
5 penalty, or interest that is owed by a taxpayer, if the Director ascertains that the cost of collecting
6 such amounts would be greater than the total amount that is owed or likely to be collected from
7 the taxpayer.
8

9 **5.55.260 Personal liability of persons in control of admission taxes.**

10 In addition to persons liable for tax pursuant to SMC Section 5.40.070:

11 A. Any individual who is responsible for collecting, accounting for, or paying over the
12 admission tax imposed by SMC Chapter 5.40, and who willfully fails to collect, account for, or
13 pay over such tax, or willfully attempts to evade or defeat such tax or the payment thereof, shall,
14 in addition to other penalties provided by law, be liable to pay the total amount of the tax evaded,
15 not collected, or not accounted for and paid over.
16

17 B. An individual is responsible for collecting, accounting for, or paying over the tax if he
18 has control over, or supervision of, the receipt of admissions charges, the filing of returns, or the
19 remittance of the tax.
20

21 C. For purposes of this section, "willfully" means that the failure was the result of an
22 intentional, conscious, and voluntary course of action.
23

24 D. An individual shall be liable only for taxes which became due during the period he
25 was required to collect, account for, and pay over the tax, plus interest and penalties on the tax.
26
27
28



1 E. An individual is not liable under this section if the failure to collect, account for, or
2 pay over the tax is due to reasons beyond his control, as determined by rules promulgated by the
3 Director.

4 F. The Director shall assess the liability in the same manner as a tax deficiency pursuant
5 to SMC 5.55.095 and the individual shall have the right of review provided by SMC 5.55.140. If
6 not appealed within the time provided in section SMC 5.55.140, the assessment is final and no
7 refund request may be made for the period covered in the assessment.
8

9 G. Once established, liability for the tax is joint and several. The Director may collect
10 the total amount of tax, but not more, either from individuals liable under this section or persons
11 liable under SMC 5.40.070, or both. This section does not relieve persons of other tax liabilities
12 or otherwise impair other tax collection remedies afforded by law.
13

14 **5.55.270 Severability**

15 If any part, provision or section of this chapter is held to be void or unconstitutional, all
16 other parts, provisions, and sections of this chapter not expressly so held to be void or
17 unconstitutional shall continue in full force and effect.
18

19 **SECTION 5.** Effective January 1, 2002, the following sections of Seattle Municipal
20 Code Title 5 are repealed: SMC Sections 5.32.010, 5.32.030, 5.32.040, 5.32.050, 5.32.060,
21 5.32.070, 5.32.080, 5.32.090, 5.32.100, 5.32.110, 5.32.120, 5.32.130, 5.32.140, 5.32.180;
22 5.40.075, 5.40.100, 5.40.110, 5.40.135, 5.40.140, 5.40.150; 5.48.030, 5.48.040, 5.48.080,
23 5.48.090, 5.48.095, 5.48.100, 5.48.110, 5.48.120, 5.48.135, 5.48.140, 5.48.150, 5.48.160,
24 5.48.170, 5.48.180, 5.48.200, 5.48.210, 5.48.220, 5.48.270;
25
26
27
28



1 5.52.040, 5.52.050, 5.52.060, 5.52.070, 5.52.080, 5.52.090, 5.52.100, 5.52.110, 5.52.120,
2 5.52.130, 5.52.140, 5.52.150, 5.52.160.

3 **SECTION 6.** Effective January 1, 2002, Section 5.32.020 of the Seattle Municipal Code is
4 amended as follows:

5 **5.32.020 Exercise of power to license for revenue.**

6
7 The provisions of this chapter shall be deemed an exercise of the power of the City to
8 license for revenue and regulation. The provisions of this chapter are subject to periodic statutory
9 or administrative rule changes or judicial interpretations of the ordinances or rules. The
10 responsibility rests with the licensee to reconfirm tax computation procedures and remain in
11 compliance with the City code.

12 **SECTION 7.** Effective January 1, 2002, Section 5.32.150 of the Seattle Municipal Code
13 is amended as follows:

14 **5.32.150 Amusement I((L))license required.**

15 It is unlawful for any person to own any amusement device, which is available for use by
16 the public, without having first obtained an amusement device license issued in accordance with
17 the provisions of this chapter. The license shall be attached to the amusement device at all times
18 when in use or play or available for use or play so that it is readily visible. This license is in
19 addition to the business license required in SMC 5.55.030.

20
21 **SECTION 8.** Effective January 1, 2002, Section 5.32.160 of the Seattle Municipal Code
22 is amended as follows:

23 **5.32.160 Exemptions.**

24 No amusement device license is required under this chapter for an amusement device if:

25 A. An admissions tax is collected upon its use pursuant to Ordinance 72495, as now
26 or hereafter amended; or

27 B. The maximum price for one (1) use or one (1) play is less than Twenty-five Cents (\$.25).
28



1 **SECTION 9.** Effective January 1, 2002, Section 5.32.170 of the Seattle Municipal Code
2 is amended as follows:

3 **5.32.170 License fees.**

4 A. The license fee for any amusement device which is operated or activated by the insertion
5 of a coin, currency, token, credit card, debit card, or other payment medium shall be based upon
6 the minimum price levied for one (1) play or one (1) use of the device. The annual license fee
7 shall be one hundred (100) times the price of one (1) play or use of the device rounded to the
8 next highest Fifty Dollars (\$50). The maximum license fee shall be Fifteen Hundred Dollars
9 (\$1,500) per device per year, with the following exceptions:
10

11 1. The license fee for a countertop device or electronic dart board shall not exceed
12 Twenty-five Dollars (\$25); and
13

14 2. The license fee for a pool table, billiard table, shuffle board, jukebox or other
15 music device shall not exceed Fifty Dollars (\$50).
16

17 B. The license fee for any amusement device which is not operated or activated by
18 the insertion of a coin, currency, token, credit card, debit card, or other payment medium shall be
19 Five Hundred Dollars (\$500) per year; except the license for a pool table, billiard table or shuffle
20 board shall not exceed Fifty Dollars (\$50) per year.

21 C. The operator of an event, not to exceed three (3) calendar days in length, may obtain a
22 Special Event License in lieu of the amusement device license required under this chapter. The
23 fee for the license shall be Five Dollars (\$5) per device offered for play at such event; provided,
24 the minimum fee shall be Twenty-five Dollars (\$25) and the maximum fee shall be One Hundred
25 Dollars (\$100).
26
27
28



1 D. Revenue from the operation of devices, whether licensed or unlicensed, is subject to the
2 provisions of Chapter 5.4((4))5 of the Seattle Municipal Code.

3 **SECTION 10.** Effective January 1, 2002, Section 5.32.200 of the Seattle Municipal Code is
4 amended as follows:

5 **5.32.200 Unlawful acts.**

6 In addition to the unlawful acts contained in SMC 5.55.220 the following are also unlawful
7 acts: A. It is unlawful for any ((owner, operator, manager or other)) person in charge of any
8 place or location to permit or allow to be used or played in such place any amusement device not
9 having attached thereto an amusement device license.
10

11 B. It is unlawful for the owner of any amusement device to fail to display his or her name
12 and current address on each amusement device when in use or play or available for use or play.

13 C. It is unlawful for any ((the owner, operator, manager, or other)) person in charge of any
14 place or location to permit, or allow to be used, or played in such place any amusement device
15 not having attached thereto the name and current address of the owner of the amusement device.
16

17 D. Remedial action by the City may include fines and imprisonment as provided for in
18 ((Section SMC 5.32.130))SMC 5.55.220.
19

20 **SECTION 11.** Effective January 1, 2002, a new Section 5.40.005 is added to Chapter
21 5.40 of the Seattle Municipal Code as follows:

22 **5.40.005 General Administrative Provisions Apply.**

23 The provisions of SMC Chapter 5.55 shall be fully applicable to the provisions of this
24 Chapter except as expressly stated to the contrary herein.
25

26 **SECTION 12.** Effective January 1, 2002, Section 5.40.010 of the Seattle Municipal
27 Code is amended as follows:
28



1 6. A charge made for automobile parking where the amount of the charge is
2 determined according to the number of passengers in an automobile.

3 B. "Cabaret" means a room where musical entertainment is permitted in connection with
4 a restaurant business.

5 C. "College" or "university" means any accredited public or private college, junior
6 college or university, or the recognized student body association thereof insofar as the admission
7 charges received by the college, university, or student body association are budgeted, and applied
8 solely for exhibition, performance, study and/or teaching of the performing arts, visual arts,
9 history, or science. It specifically excludes any athletic department or division or activities of the
10 college or university or of the recognized student body association thereof.

11 ~~((C))~~D. "Nonprofit tax-exempt organization" means an organization, corporation, or
12 association organized and operated for the advancement, appreciation, public exhibition or
13 performance, preservation, study and/or teaching of the performing arts (music, drama including
14 puppetry, opera, film arts or dance), visual arts, historic vessels, history, or science, which is
15 currently recognized by the United States of America as exempt from federal income taxation
16 pursuant to Section 501 (c)(1) or (3) of the Internal Revenue Code of 1954, 26 U.S.C. Section
17 501, as now existing or hereafter amended, and a division, department or instrumentality of state
18 or local government devoted to the arts, history or science.

19 ~~((D. "Person" means any individual, receiver, assignee, firm, co-partnership, joint~~
20 ~~venture, corporation, company, joint stock company, association, society, or any group or~~
21 ~~individuals, acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.))~~

22 **SECTION 13.** Effective January 1, 2002, Section 5.40.025 of the Seattle Municipal
23 Code is amended as follows:
24
25



SMC 5.40.025 Tax exemption -- Minimum charge -- Schools --PTSAs --

Bumbershoot.

The admission tax as imposed ((defined)) in Section 5.40.020 shall not apply to anyone paying an admission charge:

1. In the amount of Ten Cents (\$0.10) or less; or
2. To any activity of any elementary or secondary school as contemplated by RCW 35.21.280; or
3. To any activity of any Parent-Teacher-Student Association (PTSA), Parent-Teacher Association (PTA), or similar organization, provided that the proceeds of the activity are used to benefit an elementary or secondary school; or
4. To the annual Bumbershoot Festival held on Labor Day and the preceding Thursday, Friday, Saturday and Sunday((-)); or
5. To the Woodland Park Zoo.

A discount admission shall be subject to tax as contemplated by Section 5.40.056 although the discounted price is Ten Cents (\$0.10) or less, unless a criterion in Section 5.40.056 for applying the lower price is satisfied.

SECTION 14. Effective January 1, 2002, Section 5.40.060 of the Seattle Municipal Code is amended as follows:

5.40.060 Ticket ((numbering-and))information and unlawful acts.

A. Ticket information.



1 _____ 1. Whenever a charge is made for admission to any place, a serially numbered or reserve
2 seat ticket shall be furnished the person paying such charge unless written approval has been
3 obtained from the ((Finance)) Director of Finance to use a turnstile or other counting device
4 which will accurately count the number of paid admissions. The established price, service
5 charge, City tax and total price at which every such admission ticket or card is sold shall be
6 separately, conspicuously and indelibly printed or written on the face or back of that part of the
7 ticket which is to be taken up by the management of the place to which admission is gained.
8

9 _____ 2. It shall be unlawful for anyone to sell an admission ticket or card on which the name
10 of the person conducting the event and the price is not so printed, stamped or written, or to sell or
11 offer to sell an admission ticket or card at a price in excess of the price printed, stamped or
12 written thereon. The admission tax due shall be based on the total sum of the established price
13 plus any service charge printed on the ticket. When a charge is made for admission, a sign must
14 be posted in a conspicuous place on the entrance or ticket office which breaks down the
15 admission charge as follows:
16

17
18 Established Price

19 Service Charge (if any)

20 City Tax

21 Total Price

22

23 It is unlawful to charge a service charge on admission tickets unless the purchaser is fully
24 informed of the purpose of such charge by published or posted notice in advance of the ticket
25 sale.
26
27
28



1 3. The Director of Finance or his/her designee, who has been commissioned as a Special
2 Police Officer, is authorized to confiscate, seize, or otherwise remove from sale, or offered sale,
3 any ticket in violation of or offered for sale or sold in violation of SMC subsections 5.40.060
4 (A)(1) or (2).

5 B. It is unlawful for any person to request a donation or contribution that represents an
6 admission charge or fee for the privilege of entering, attending, or remaining in attendance at any
7 theater, dance, amusement or other place of public performance ((as a donation or contribution))
8 where persons are not admitted or allowed to remain in attendance without payment of such
9 donation or contribution ((charge or fee)). A "suggested donation" shall not be stated on an
10 invitation or accompanying literature.

11 **SECTION 15.** Effective January 1, 2002, Section 5.40.070 of the Seattle Municipal
12 Code is amended as follows:

13 **5.40.070 Remittance of tax.**

14 Any((one,)) person ((including any municipal or quasi-municipal corporation)) who
15 receives any payment for any admission charge on which a tax is levied under this chapter shall
16 collect the amount of the tax from the person making the admission payment at the time payment
17 is made. The person receiving payment ((and)) shall remit the ((same)) admission tax to the
18 Director of Finance ((Director)) ((as provided in this section.)) according to the provision
19 contained in SMC 5.55 except where specifically provided for herein. The tax ((required to
20 be)) collected under this chapter shall be deemed held in trust by the person required to collect the
21 same until remitted to the Director((as provided in this section)). ((Anyone required to collect
22
23
24
25
26
27
28



1 ~~the tax imposed under this chapter who~~) Persons failing((s)) to collect the ((~~same~~))admission tax,
2 or who collects the ((~~same~~))tax but fails to remit the ((~~same~~))tax to the Director ((~~in the manner~~
3 ~~prescribed by this chapter~~)) shall be liable to the City for the amount of such tax.((~~and~~)) Such
4 person shall, unless the remittance be made as required in this section, be guilty of a violation of
5 this chapter whether such failure be the result of his or its own act or the result of acts or
6 conditions beyond his or its control. ((~~The tax imposed under this chapter shall be collected from~~
7 ~~the person paying the admission charge at the time the admission charge is paid and such taxes~~
8 ~~shall be remitted by the person collecting the tax to the Director in monthly remittances on or~~
9 ~~before the fifteenth day of the month next succeeding the end of the monthly period in which the~~
10 ~~tax is collected or received and accompanied by such reports as the Director shall require:~~
11
12 ~~Provided, that the Director for good cause shown, may extend the time for making and filing the~~
13 ~~return and remittance of the tax due. Payment or remittance of the tax collected may be made by~~
14 ~~check unless payment or remittance is otherwise required by the Director, but payment by check~~
15 ~~shall not relieve the one collecting the tax from liability for payment and remittance of the tax to~~
16 ~~the Director unless the check is in the full and correct amount and until the check is honored.))~~
17
18 Anyone receiving any payment for admissions shall make out a return upon such forms and
19 setting forth such information as the Director may require, showing the amount of the tax upon
20 admissions for which he is liable for the preceding monthly period, and shall sign and transmit
21 the same to the Director with a remittance for said amount.((~~Provided, that the Director may in~~
22 ~~his or her discretion require verified annual re-turns from anyone receiving admission payments~~
23 ~~setting forth such additional information as he or she may deem necessary to determine correctly~~
24 ~~the amount of tax collected and payable. If the return provided for in this section is not made and~~
25
26
27
28



1 ~~the tax is not collected and paid within twenty five (25) days after the end of the month in which~~
2 ~~the tax was collected, the Director shall add a penalty of ten percent (10%) of the tax per month~~
3 ~~or fraction thereof for each month overdue which shall be added to the amount of the tax due,~~
4 ~~and remitted in the same manner.))~~ Whenever any theater, circus, show, exhibition,
5 entertainment or amusement makes an admission charge which is subject to the tax levied in this
6 chapter, and the same is of a temporary or transitory nature or there exists a reasonable question
7 of financial responsibility, of which the Director shall be the judge, the Director may require the
8 report and remittance of the admission tax immediately upon the collection of the same, at the
9 conclusion of the performance or exhibition, or at the conclusion of the series of performances or
10 exhibitions or at such other times as he or she shall determine. ~~((; and f))~~ Failure to comply with
11 any requirement of the Director as to report and remittance of the tax as required shall be a
12 violation of this chapter. Everyone liable for the collection and payment of the tax imposed by
13 this chapter shall keep and preserve for a period of five (5) years all unused tickets, ticket
14 manifests, books and all other records from which can be determined the amount of admission
15 tax which he or she was liable to remit under the provisions of this chapter, and all such tickets,
16 books and records shall be open for examination and audit at all reasonable times by the
17 ~~((Finance))~~ Director of Finance or his or her duly authorized agent. Written permission may be
18 granted by the Director to destroy unused tickets prior to the expiration of the five (5) year
19 period.
20
21
22
23
24

25 **SECTION 16.** Effective January 1, 2002, Section 5.40.080 of the Seattle Municipal Code
26 is amended as follows:
27
28



1
2 **5.40.080 Certificate of registration—Required—Application.**

3 Any person conducting or operating any place for entrance to which an admission charge
4 is made shall, prior to the commencement of any such activity, and on a form prescribed by the
5 ((Finance)) Director, ((make application to the Director for issuance of a certificate of
6 registration, the fee for which shall be One Dollar (\$1.00), which certificate shall continue valid
7 until December 31st of the year in which the same is issued. Such certificate of registration, or
8 duplicate original copies thereof to be issued without additional charge, shall be posted in a
9 conspicuous place in each ticket or box office where tickets of admission are sold. file an
10 application with the Director to conduct or operate such activity. The application shall be filed
11 whether or not the person has received an exemption from collecting the tax under the provision
12 of this chapter. The Director shall then issue a business license with an admission tax
13 endorsement. The endorsement shall continue valid until December 31st of the year in which the
14 application was filed. Failure to obtain or renew the endorsement prior to conducting the activity
15 for which an admission charge is made will result in the penalties contained in SMC 5.55.030
16 (E).

17
18
19
20 **SECTION 17.** Effective January 1, 2002, a new Section 5.48.015 is added to the Seattle
21 Municipal Code as follows:
22
23
24
25
26
27
28



1 **5.48.015 Administrative Provisions.**

2 The provisions contained in SMC Chapter 5.55 shall have full force and application with
3 respect to taxes imposed under the provisions of this chapter except as expressly stated to the
4 contrary herein

5 **SECTION 18.** Effective January 1, 2002, Section 5.48.020 of the Seattle
6 Municipal Code is amended as follows:

7 **5.48.020 Definitions.**

8 A. The definitions contained in SMC 5.30 shall be fully applicable to the provisions ((In
9 construing the provisions)) of this chapter unless otherwise expressly defined in this chapter.

10 ~~((declared or clearly apparent from the context, the following definitions shall be applied:))~~

11 ~~((1. "Business" includes all activities engaged in with the object of gain, benefit or advantage to~~
12 ~~the taxpayer or to another person or class, directly or indirectly.~~

13 ~~2. "City" means The City of Seattle.~~

14 ~~3. "Cellular Telephone service" is a voice and data telephone/telecommunications system based~~
15 ~~in whole or substantial part on wireless radio communications, whether or not the~~

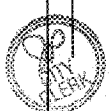
16 ~~communications are subject to regulation by the Washington Utilities and Transportation~~

17 ~~Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes~~

18 ~~other wireless radio communications services such as specialized mobile radio (SMR), personal~~
19 ~~communications services (PCS), and any other evolving wireless radio communications~~

20 ~~technology which accomplishes the same purpose as cellular mobile service. Cellular telephone~~
21 ~~service is included within the definitions of "telephone business" for purposes of this chapter and~~

22 ~~Chapter 5.44.~~



1 ~~4. "Competitive telephone service" means the providing by any person of telecommunications~~
2 ~~equipment or apparatus, directory advertising and lease of telephone street directories, or service~~
3 ~~related to that equipment or apparatus such as repair or maintenance service, if the equipment or~~
4 ~~apparatus is of a type which may be provided by persons not subject to regulation as telephone~~
5 ~~companies under Title 80 RCW, and for which a separate charge is made. Transmission of~~
6 ~~communication through cellular telephones is classified as "telephone business" rather than~~
7 ~~"competitive telephone service."~~

8
9 5. ~~"Construction, Demolition and Landclearing Waste" or "CDL Waste" has the meaning given~~
10 ~~in SMC Section 21.36.012.~~

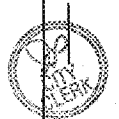
11
12 6. ~~"Department" means the Department of Finance of The City of Seattle, or its functional~~
13 ~~successor.~~

14 7. ~~"Director" means the Director of Finance of The City of Seattle, or his or her functional~~
15 ~~successor~~

16 8. ~~"Garbage" has the meaning given in SMC Section 21.36.014.~~

17 9. ~~—))~~

18 B. "Gross income" means the value proceeding or accruing from the sale of tangible property or
19 service, and receipts (including all sums earned or charged, whether received or not), by reason
20 of the investment of capital in the business engaged in, including rentals, royalties, fees, or other
21 emoluments, however designated (excluding receipts or proceeds from the use or sale of real
22 property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other
23 evidences of indebtedness, or stocks and the like) and without any deduction on account of the
24 cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any
25 expense whatsoever, and without any deduction on account of losses, including the amount of
26 credit losses actually sustained by the taxpayer whose regular books or accounts are kept upon an
27 accrual basis.



1 ~~((10. "Nonprofit tax exempt organization" means an organization, corporation, or association~~
2 ~~which is currently recognized by the United States of America as exempt from federal income~~
3 ~~taxation pursuant to Section 501(c)(1), (3), (4), or (6) of the Internal Revenue code of 1954, 26~~
4 ~~U.S.C. §501, as now existing or hereafter amended.~~

5 ~~11. "Pager service" means service provided by means of an electronic device which has the~~
6 ~~ability to send or receive voice or digital messages transmitted through the local telephone~~
7 ~~network, via satellite or any other form of voice data transmission. 12. "Person or persons"~~
8 ~~means any individual, firm, receiver, assignee, trustee in bankruptcy, trust, estate, firm,~~
9 ~~partnership, joint venture, joint stock company, corporation, association, society, limited liability~~
10 ~~corporation, and other association of natural persons, whether acting by themselves or by~~
11 ~~servants, agents, or employees and includes the United States or any instrumentality thereof,~~
12 ~~provided a valid tax may be levied upon or collected therefrom under the provisions of this~~
13 ~~chapter. The term includes all nonprofit tax exempt organizations.~~

14 ~~13. "Recovered material" means a usable or marketable product or commodity that results from~~
15 ~~recycling or material owned or acquired from another, but excludes use for landfill or~~
16 ~~incineration.~~

17 ~~14. "Recyclable" means material:~~

18 ~~a. That is collected for recycling or reuse, such as papers, glass, plastics, used wood, sand,~~
19 ~~building debris, metals, yardwaste, used oil and tires; and~~

20 ~~b. That if not collected for recycling would otherwise be destined for disposal at a~~
21 ~~landfill or incineration.~~



1 ~~15. "Recycled material" means material that is in fact recycled, re-used, or reprocessed after~~
2 ~~collection; and if not recycled, re-used or reprocessed, would have been destined for disposal at a~~
3 ~~landfill or incineration.~~

4 ~~16. "Recycling" has the meaning given in SMC Section 21.36.016.~~

5 ~~17. "Rubbish" has the meaning given in SMC Section 21.36.016.~~

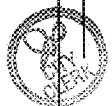
6 ~~18. "Solid waste" has the meaning given in SMC Section 21.36.016.~~

7 ~~19. "Successor" means any person who through direct or mesne conveyance, purchases or~~
8 ~~succeeds to the business, or portion thereof, or the whole or any part of the stock of goods, wares~~
9 ~~or merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging~~
10 ~~or otherwise disposing of his or her business. Any person obligated to fulfill the terms of a~~
11 ~~contract shall be deemed a successor to any contractor defaulting in the performance of any~~
12 ~~contract as to which such person is a surety or guarantor.~~

13 ~~20. "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.~~

14 ~~21. "Tax year" or "taxable year" shall mean either the calendar year or the taxpayer's fiscal~~
15 ~~year when permission is obtained from the Director of Finance to use a fiscal year in lieu of the~~
16 ~~calendar year.~~

17 ~~22. "Telephone business" means the business of providing access to a local telephone~~
18 ~~network, local telephone network switching service, toll service, coin telephone services,~~
19 ~~telephonic, video, data, cellular telephone service, pager service, or similar communication, or~~
20 ~~transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or~~
21 ~~similar communication or transmission system. The term includes cooperative or farmer line~~
22 ~~telephone companies or associations operating exchanges. "Telephone business" does not include~~
23
24
25
26
27
28



1 ~~the providing of competitive telephone service, or providing of cable television service, or other~~
2 ~~providing of broadcast services by radio or television stations.~~

3 23. ~~"Within the City" or "in the City" includes but is not limited to all federal areas lying within~~
4 ~~the boundaries of The City of Seattle.~~

5 24. ~~"Yardwaste" has the meaning given in SMC Section 21.36.016.~~

6 B. ~~Words in the singular number shall include the plural, and plural shall include the singular.~~

7 ~~Words of one (a) gender shall include all other genders.))~~

8
9 SECTION 19. Effective January 1, 2002, Section 5.48.050 of the Seattle Municipal Code is
10 amended as follows:

11
12 **5.48.050 Occupations subject to tax -- Amount.**

13 There are levied upon, and shall be collected from everyone, including The City of Seattle, on
14 account of certain business activities engaged in or carried on, annual license fees or occupation
15 taxes in the amount to be determined by the application of rates given against gross income as
16 follows:

17
18 A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six
19 (6) percent of the total gross income from such business provided to consumers within the
20 City((in the City)); provided, that effective January 1, 1987, the tax liability imposed under this
21 section shall not apply for that portion of gross income derived from charges to another
22 telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching
23 charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or
24 charges for, interstate services, which shall be taxed under SMC Chapter 5.4((4))5. The total
25 gross income shall also include all charges by the provider of cellular or cellular mobile
26

1 telephone services provided to its customers in any taxing jurisdiction (intrastate or interstate),
2 which are billed to a "place of primary use" located in Seattle by or for the home service
3 provider, irrespective of whether the services are provided by the home service provider.

4 B. Upon everyone engaged in or carrying on the business of selling, brokering, or
5 furnishing gas for hire, a fee or tax equal to six (6) percent of the total gross income from such
6 business in the City.

7 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of
8 selling or furnishing water for hire to consumers, a fee or tax equal to ten and one-tenth (10.1)
9 percent of the total gross income from such retail business in the City; provided that as to The
10 City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the
11 business of such utility done without, as well as within, the City.

12 D. Upon everyone, including The City of Seattle, engaged in or carrying on the business of
13 selling or furnishing electric light and power to consumers, a fee or tax equal to six (6) percent of
14 the total gross income from such business in the City. The fee or tax imposed upon the
15 municipal light and power system of the City shall be applicable to the business of such system
16 both within and without the City; provided, that as to the gross income derived by such system
17 from the production, sale or transfer of electric energy for resale or consumption outside the state
18 the fee or tax shall be in an amount equal to five (5) percent of the gross income.

19 E. Upon everyone conducting or engaged in the business of supplying steam heat or power
20 to consumers (~~to the public for hire~~), a fee or tax equal to six (6) percent of the total gross
21 income from such business in the City.

22 F. Upon The City of Seattle in respect to the conduct, maintenance, and operation of its
23 municipal drainage and wastewater system as a public utility a fee or tax equal to ten (10) percent
24
25
26
27
28

1 of the total gross income from the drainage and wastewater charges provided for under City
2 ordinances.

3 G. As to solid waste, see Section 5.48.055.

4 H. Upon everyone engaged in the business of operating or conducting a cable television
5 system (CATV), a fee or tax equal to ten (10) percent of the total gross income from gross
6 subscriber revenues. For purposes of this chapter, "gross subscriber revenues" means and
7 includes those revenues derived from the supplying of subscription service, that is, installation
8 fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission of
9 broadcast signals and access and origination channels and per-program or per-channel charges;
10 provided the tax liability imposed under this section shall not include leased channel revenue,
11 advertising revenues, or any other income derived from the system, which shall be taxed under
12 SMC Chapter 5.4((4))5. The business of operating or conducting a cable television system
13 (CATV) does not include the provision of interactive two-way communications over cable. Such
14 activities shall be reported under telephone business.
15
16
17

18 **SECTION 20.** Effective January 1, 2002, Section 5.48.070 of the Seattle Municipal Code is
19 amended as follows:

20 **5.48.070 Exceptions and deductions.**

21 A. There shall be excepted and deducted from the total gross income upon which the
22 license fee or tax is computed, amounts derived from business which the City is prohibited from
23 taxing under the Constitution or laws of the United States, the Constitution or laws of the state,
24 or the Charter ((note-1)) of the City; and any amounts collected by the taxpayer as an excise tax
25 (trust funds) and remitted to the taxing authority, including but not limited to the leasehold excise
26
27
28



1 tax, retail sales and use tax, State's refuse collection tax, and admission tax(~~(, and gambling~~
2 tax)).

3 B. (~~Any person subject to a license fee or tax under the provisions of any ordinance of~~
4 ~~the City, other than this chapter or Ordinance 98776, (Note 2) on account of engaging in any~~
5 ~~activity for which he or she is liable for tax under this chapter, may deduct the amount of such~~
6 ~~fee or tax from the amount of fee or tax imposed by this chapter on account of such activity, but~~
7 ~~such person shall nevertheless, in the manner provided for in this chapter, apply for and procure~~
8 ~~an occupation license.))~~

9
10 ((~~C.~~) A taxpayer engaged in a telephone business shall exclude from the total taxable
11 gross income charges to a telecommunications company, as defined in RCW 80.04.010, for
12 network telephone service, as defined in RCW 82.04.065, that the telecommunication company
13 purchases for the purpose of resale. This excluded revenue shall be recorded and taxed under
14 SMC Chapter 5.4((4))5.

15
16 C.((~~D.~~) A deduction from gross income shall be allowed, only to cellular
17 telephone service companies who keep their regular books of account on an accrual basis, for
18 credit losses actually sustained by a taxpayer as a result of cellular telephone service business.
19 ((which shall be phased in as follows: twenty (20) percent of the credit losses occurring in 1995;
20 forty (40) percent of the credit losses occurring in 1996; sixty (60) percent of the credit losses
21 occurring in 1997; and eighty (80) percent of the credit losses occurring in 1998; and a complete
22 deduction for the credit losses occurring in 1999 and thereafter.))

23
24
25 **SECTION 21.** Effective January 1, 2002, Section 5.48.260 of the Seattle Municipal Code
26 is amended as follows:
27
28

1 **5.48.260 Allocation of revenues – Cellular telephone service.**

2 A. (~~Service address~~) In determining the total gross income from telephone business in the
3 City for purposes of Section 5.48.050A, there shall be included all gross income from cellular
4 telephone service (including roaming charges incurred by Seattle customers outside this state)
5 provided to customers whose “place of primary use” (~~principal service address~~) is in the City,
6 regardless of the location of the facilities used to provide the service. The customer’s
7 ~~“principal service address”~~ place of primary use is, with respect to each telephone: (a) the
8 customer’s (~~plant, store, office, or other facility where the telephone is normally assigned for use~~
9 ~~in conjunction with the customer’s business activity;~~) address; or (b) the customer’s place of
10 residence if the telephone is for personal use, and in both cases must be located within the
11 licensed service area of the home service provider. Roaming charges and cellular telephone
12 charges to customers whose principle service address is outside Seattle will not be taxable even
13 though those mobile services are provided within Seattle.

14 B. There is a rebuttable presumption that the (~~principal service~~) “place of primary use”
15 address shown on the cellular telephone service company’s records is accurate. If the cellular
16 telephone service company knows or should have known that a customer’s (~~principal~~
17 ~~service~~) place of primary use address for a telephone is within the City then the gross revenue
18 from cellular telephone service provided to that customer with respect to that telephone is to be
19 included in the company’s gross income.

20 (~~C. — Non-Washington roaming phones. In determining the total gross income from telephone~~
21 ~~business in the City for purposes of Section 5.48.050A, there shall be included all gross income~~
22 ~~from cellular telephone services rendered to customers using non-Washington telephones (which~~
23 ~~means cellular telephones with principal service addresses outside the state) through the use of~~
24 ~~switching facilities located in the City. In the event technological advances result in a cellular~~
25 ~~telephone service company’s accounting system accurately assigning revenue from such a~~
26 ~~customer’s call to the location of the originating cell site rather than to the location of the main~~
27 ~~cellular switching office that switched the call, and the company has elected to report, to all~~
28 ~~taxing jurisdictions throughout Washington State, its revenues from non-Washington telephones~~
~~according to the location of the originating cell site, then that company’s gross revenue for~~

1 ~~purposes of Section 5.48.050A shall, instead of the preceding sentence, include all gross income~~
2 ~~from services rendered to customers using non-Washington telephones derived from calls~~
3 ~~originating in cell sites within the City.~~

4 ~~D. — Dispute resolution. If there is a dispute between or among the City and another city or~~
5 ~~cities as to the principal service address for a customer's cellular telephone service, or any other~~
6 ~~matter concerning allocation of revenues, and the dispute is not resolved by negotiation among~~
7 ~~the parties, then the dispute shall be resolved by the City and the other city or cities through the~~
8 ~~Association of Washington Cities. Once taxes on the disputed revenues have been paid to one~~
9 ~~(1) of the contesting cities, the cellular telephone service company shall have no further liability~~
10 ~~with respect to additional taxes, penalties, or interest on the disputed revenues so long as it~~
11 ~~promptly changes its billing records for future revenues to comport with the settlement facilitated~~
12 ~~by the Association of Washington Cities.))~~

13 **SECTION 22.** Effective January 1, 2002, a new Section 5.52.005 is added to the Seattle
14 Municipal Code as follows:

15 **5.52.005 Administrative Provisions.**

16 All of the provisions contained in SMC 5.55 shall have full force and application with respect
17 to taxes imposed under the provisions of this chapter except as expressly stated to the contrary
18 herein.

19 **SECTION 23.** Effective January 1, 2002, Section 5.52.010 of the Seattle Municipal Code is
20 amended as follows:

21 **5.52.010 Definitions.**

22 The definitions contained in SMC 5.30 shall be fully applicable to the provisions of this
23 chapter except as expressly stated to the contrary herein or defined otherwise in RCW Chapter
24 9.46.
25
26
27
28

1 ~~((Words and terms used in this chapter shall have the same meaning as each has under RCW~~
2 ~~Chapter 9.46, as now existing or hereafter amended, unless otherwise specifically provided in~~
3 ~~this chapter, or when the context in which they are used in this chapter clearly indicates that they~~
4 ~~be given some other meaning.~~

5 A. ~~"Bona fide charitable organization" means an organization that meets all of the requirements~~
6 ~~of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated~~
7 ~~primarily to provide charitable services as defined by WAC 230.02.160.~~

8 B. ~~"Bona fide nonprofit organization" means an organization that meets all of the requirements~~
9 ~~of RCW 9.46.0209.~~

10 C. ~~"Department" means the Department of Finance of The City of Seattle, or its functional~~
11 ~~successor.~~

12 D. ~~"Director" means the Director of Finance of The City of Seattle, or his or her functional~~
13 ~~successor.~~

14 E. ~~"Gross gambling receipts" means the monetary value that would be due to any operator of~~
15 ~~a gambling activity for any chance taken, other participation fees, any rental or lease fees for~~
16 ~~amusement games received by a commercial amusement game operation, as evidenced by~~
17 ~~required records. The value shall be stated in U.S. currency, before any deductions for prizes or~~
18 ~~any other expenses. In the absence of records, gross gambling receipts shall be the maximum~~
19 ~~that would be due to an operator from that particular activity if operated at maximum capacity.~~

20 F. ~~"Net gambling receipts" means all gross gambling receipts from any gambling activity, less~~
21 ~~the monetary value or, in the case of merchandise, the actual cost, of any prizes that were~~
22 ~~awarded.~~



1 ~~G. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm,~~
2 ~~partnership(s), joint venture, joint stock company, corporation, association, society, limited~~
3 ~~liability corporation, or any group of individuals acting as a unit, whether mutual, cooperative,~~
4 ~~fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof,~~
5 ~~provided a valid tax or fee may be levied upon or collected therefrom under the provisions of this~~
6 ~~chapter. The term includes all bona fide charitable organizations and bona fide nonprofit~~
7 ~~organizations.~~

9 ~~H. "Within the City" or "in the City" includes but is not limited to all federal areas lying~~
10 ~~within the boundaries of The City of Seattle.)~~

11
12 **SECTION 24.** Effective January 1, 2002, Subsection 3.02.125 A of the Seattle
13 Municipal Code is amended as follows:

14 **SMC 3.02.125 Hearing Examiner filing fees.**

15
16 A. Filing fees for hearings before the City Hearing Examiner are as follows:

17 Basis for Hearing	18 Fee
19 Admission Tax, Revocation of	
20 Exemption (Sec. 5.40.085)	No fee
21 <u>Admission Tax</u>	
22 <u>Deficiency (Ch. 5.40)</u>	<u>\$ 50</u>
23 Ballard Avenue Landmark District	
24 (Ch. 25.16)	\$ 50
25 Business <u>License</u> ((and Occupation)) Tax	
26 Deficiency (Ch. 5.45((4)))	50
27	
28	



1		
2	Cable Television Ordinance	
3	(Ch. 21.60)	No fee
4	Columbia City Landmark District	
5	(Ch. 25.20)	50
6		
7	Design Decision in Multiple	
8	Residence -- Mixed Density Zone	
9	(Ch. 24.38)	50
10		
11	Fair Employment Practices	
12	Ordinance (Ch. 14.04)	No fee
13	Floating Home Moorages	
14	(Ch. 7.20)	50
15	/petitioner; maximum fee	150
16		
17	<u>Gambling Tax</u>	
18	Deficiency (Ch. 5.52)	50
19		
20	Grading Ordinance (Title 22, Subtitle VIII)	50
21		
22	Harvard/Belmont Landmark District (Ch. 25.22)	50
23		
24	Housing Code (Ch. 22.206)	50
25		
26	Land Use Code Enforcement (Ch. 23.90)	50
27		
28		



1	Landmark Preservation Controls and	
2	Incentives (Sec. 25.12.530)	No fee
3	Landmarks Preservation (Sec.	
4	25.12.740 and Sec. 25.12.835)	50
5		
6	License Code (Title 6, Subtitle I)	50
7		
8	Master Use Permit (Ch. 23.76)	50
9		
10	Noise Ordinance (Ch. 25.08)	50
11		
12	Open Housing Ordinance	
13	(Ch. 14.08)	No fee
14		
15	Pike Place Market Historical	
16	District (Ch. 25.24)	50
17		
18	Pioneer Square Minimum	
19	Maintenance Ordinance	
20	(Ch. 25.28, Subchapter II)	50
21		
22	Planned Unit Development	
23	(Ch. 24.66)	50
24		
25	Plumbing Code (Ch. 20.16, Uniform	
26	Plumbing Code, Ord. 116594)	50
27		
28		



1		
2	Property Tax Exemption, Cancellation	
3	of Exemption (Ch. 5.72)	50
4		
5	Radiofrequency Radiation Ordinance (Ch. 25.10)	50
6		
7	Relocation Assistance (Ch. 20.84)	No fee
8		
9	Seizure of Property -- Controlled	
10	Substances (RCW 69.50.505(e))	No fee
11		
12	Special Review Districts (Ch. 23.66)	50
13		
14	State Environmental Policy Act (SEPA)	
15	(when not a Master Use Permit component)	
16	(Ch. 25.04)	50
17	Utility tax (Ch. 5.48)	50
18		
19	Zoning Map Amendments (Rezoning)	
20	(Ch. 23.34)	No fee
21		
22	Zoning Rulings and Interpretations	
23	(Ch. 23.88)	50
24		



1 for the purpose of resale. This excluded revenue shall be recorded and taxed under SMC Chapter
2 5.45((4)).

3 * * *

4
5 **SECTION 28.** Effective January 1, 2002, Section 5.48.060 of the Seattle Municipal
6 Code is amended as follows:

7
8 **SMC 5.48.060 City of Seattle subject to tax.**

9 Subsections(~~s C, D, and F of Section~~) 5.48.050 C, D, and F, Section 5.48.055, and
10 Sections 5.55.050 C, 5.55.090 A and B, and 5.55.110 (~~(5.48.140)~~) shall, so far as permitted by
11 law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required
12 to conform to the other provisions of this chapter.

13
14 **SECTION 29.** Effective January 1, 2002, Subsection 6.20.030 A of the Seattle
15 Municipal Code is amended as follows:

16 **SMC 6.20.030 Application; Coordination; Records.**

17
18 A. Application. A promoter (~~(promoter)~~) or organizer of a trade show shall apply to the
19 Director of Finance (~~(Licenses and Consumer Affairs)~~) for a trade show license at least one (1)
20 day before the trade show opens. The application shall identify the trade show, its location and
21 dates, and contain or be supplemented by a listing of the name, address, and business telephone
22 number of each participant, and identify any "used goods dealer" as defined in Section 6.288.010
23
24 H. A participant must be listed in order to be eligible for the exclusion in Sections 6.20.050
25 (~~(6.02.050)~~) and 5.55.030 D(~~(5.44.130 D)~~), and identified as a "used goods dealer" for
26 registration under Section 6.20.050 C.
27
28



1 his or her business activities in Seattle to a trade show ancillary to a convention, shall be exempt
2 from paying the minimum business license fee required by Section 5.55.030 A (~~5.44.300 A~~) on
3 account of his or her business activities at the trade show, or in the event that the participant
4 already has a City business license, from securing a license for a separate business location at the
5 trade show under Section 5.55.030 B(~~5.44.300 B~~), each for the duration of the trade show
6 license.
7

8 B. A participant at a trade show remains subject to the other provisions of Chapters
9 5.45(~~(4)~~) or 5.48, as the case may be, ~~(and if)~~ If the gross proceeds of sales, value of products,
10 or gross income of the participant on account of his or her business activities at the trade show or
11 elsewhere in Seattle is equal to or exceeds the taxable threshold pursuant to SMC 5.55.040 D
12 ~~((Fifty Thousand Dollars (\$50,000.00)))~~ in the tax year, the participant shall file and pay the
13 City's business license (~~or utility~~) tax as contemplated by Chapter 5.45(~~(4)~~), ~~((or 5.48,~~
14 ~~respectively.))~~
15

16 * * *

17
18 **SECTION 32.** Effective January 1, 2002, Subsection 6.288.100 B of the Seattle
19 Municipal Code is amended as follows:

20 **SMC 6.288.100 Retention of property.**

21 * * *

22
23 B. Scrap metal obtained from a scrap metal hauler or other seller enumerated in Section
24 6.288.070 B 1f (i) and (ii) shall be retained for a minimum of five (5) days, excluding Sundays,
25 and national holidays; provided, that scrap metal purchased from another used goods licensee
26 other than a scrap metal hauler, or a manufacturer, as defined by Chapter 5.30(~~Section~~
27
28



1 ~~5.44.020~~) of the Seattle Municipal Code, or a utility designated by Section 5.48.050 of the
2 Seattle Municipal Code, or a government entity shall not be subject to a retention period.

3 **SECTION 33.** Effective January 1, 2002, Section 3 of Ordinance 118145, appearing as
4 an Editor's Note after Section 3.14.750 of the Seattle Municipal Code, is amended as follows:

5 Section 1. The Director of the Department of Neighborhoods ((NPO)) is authorized to
6 enter into agreements with neighborhood planning groups consistent with the form attached
7 hereto, for the development of neighborhood plans consistent with the City's Comprehensive
8 Plan.
9

10 Section 2. The agreements authorized in Section 1 shall be exempt from the provisions of
11 SMC Ch. 3.114.
12

13 Section 3. Any neighborhood planning group entering into an agreement authorized in
14 Section 1 shall be exempt from the provisions of SMC 5.55.030 and SMC 5.45.060 ((SMC
15 ~~5.44.040 and SMC 5.44.130~~)), so long as the activities of the group receiving the contracted-for
16 funds are restricted solely to development of neighborhood plans.
17

18 **SECTION 34. Severability.** If any part, provision or section of this ordinance is held to
19 be void or unconstitutional, all other parts, provisions, and sections of this ordinance not
20 expressly so held to be void or unconstitutional shall continue in full force and effect.
21
22
23
24
25
26
27
28

SECTION 35. Prospective application of ordinance.

1
2 The provisions of this ordinance apply prospectively only and not retroactively. The
3 legality of taxes accruing for periods before January 1, 2002 is governed by the law in existence
4 at the time the tax accrued. Notwithstanding the forgoing, new sections 5.55.140, 5.55.150, and
5 5.55.160 of the Seattle Municipal Code (pertaining to procedures for review) shall apply to
6 appeals or refund claims filed on or after January 1, 2002. The City Council intends that this
7 ordinance have no effect on appeals or refund claims filed before January 1, 2002.
8

9 **SECTION 36.** The Department of Finance shall immediately initiate a dialogue with
10 representatives from the local biotechnology industry to determine the appropriate Business and
11 Occupation tax classification for their in-city business activities. The goal of these discussions will
12 be to develop an equitable arrangement, comparable to that already established for the local
13 software industry, that identifies what share of their manufacturing revenues should be
14 appropriately attributed to the companies' local business operations. Discussions shall include
15 whether or not tax credits for certain of the industry's activities may be appropriate. A preliminary
16 report on the status of these discussions shall be provided to the Finance, Budget and Economic
17 Development Committee by March 31, 2002. A final proposal from the Department of Finance,
18 including any necessary legislative changes, shall be provided to the Committee by September 30,
19 2002. As appropriate, the terms and conditions developed through this process will also be applied
20 to the taxation of software manufacturing, with the Executive proposing, as part of its final
21 recommendations, the legislative revisions needed to implement any resulting modifications in the
22 tax code. If the final code revisions implemented by the City alter the taxes owed by individual
23
24
25
26
27
28



1 firms, the resulting changes will be applied retroactively to taxes due in 2002 and appropriate
2 adjustments will made to the tax liabilities of the affected firms.

3 **SECTION 37.** This ordinance shall take effect and be in force thirty (30) days from and
4 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
5 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
6

7
8 Passed by the City Council the 10th day of December 2001, and signed by me in
9 open session in authentication of its passage this 10th day of December 2001.

10
11
12 Margaret Chrys
President _____ of the City Council

13 Approved by me this 14th day of DECEMBER, 2001.

14
15 Paul Schell
Paul Schell, Mayor

16 Filed by me this 14th day of Dec., 2001.

17
18 Julie E. Lynn
19 City Clerk

20 (Seal)





City of Seattle

Paul Schell, Mayor


Department of Finance

Dwight D. Dively, Director

MEMORANDUM

Date: September 24, 2001

To: Honorable Margaret Pageler, President
Seattle City Council

From: Dwight Dively, Director
Department of Finance 

Subject: AN ORDINANCE relating to taxation, adopting the provisions of the model business license tax ordinance, creating separate chapters for administrative provisions and definitions governing taxation, repealing chapter 5.44 of the Seattle Municipal Code, and amending and repealing various other sections of the Seattle Municipal Code in connection therewith.

The attached ordinance represents the City of Seattle's version of the model city Business and Occupation (B&O) tax ordinance that has been developed during the past two years. The model ordinance is a cooperative effort among the cities of Bellevue, Bellingham, Everett, North Bend, Seattle, and Tacoma, with the assistance of the Association of Washington Cities, to develop a uniform approach to city B&O taxation. The model ordinance is intended to accomplish several purposes:

- 1) It eliminates the possibility of multiple taxation of the same gross receipts by creating a system of credits and deductions amongst the cities with a gross receipts B & O tax. Under current city tax codes and legal rulings, some gross receipts may be subject to tax in more than one city. These situations are fairly rare and the cities involved have worked out apportionment plans in specific cases, but the impression of unfairness remains. The model ordinance eliminates the possibility of multiple taxation.
- 2) It creates uniform administrative rules. Each city has had its own rules about due dates, interest charges, refund periods, etc. The model ordinance creates standard administrative provisions for all cities, which are identical with the State's provisions in almost all cases. This will simplify compliance for businesses.
- 3) It preserves a substantial degree of local control. City B&O taxes have been in existence for more than 60 years and cities have exercised almost complete control over classifications, exemptions, credits, and similar provisions. The model ordinance preserves this local authority while ensuring compliance with provisions to simplify administration and prevent multiple taxation. Cities will be able to establish



exceptions to some model ordinance provisions to preserve features important to their communities.

- 4) It provides clear definitions of "nexus", which determines where and when a business activity is taxed. Currently, different cities have different approaches to determining nexus and many rely on a series of rules and court decisions that are not readily available to businesses. The model ordinance has clear nexus provisions that make it much easier to determine whether tax is owed in a particular city.
- 5) It improves information about city taxes. The model ordinance is available on a central Web site (Municipal Research Service Center) and each city adopting the ordinance will post any exceptions it makes. Thus, a business will be able to identify the tax law in effect in each city. The cities intend to make annual updates to the model ordinance if needed and to post these as they are implemented.

Several of the larger cities have indicated their desire to adopt the model ordinance this fall so that it can be effective on January 1, 2002. AWC is working with the smaller cities to gain support for the model ordinance, with the hope that many of these cities will adopt the ordinance in 2002.

In late August, the Governor convened a working group of city and business representatives to consider possible changes to the model ordinance. Some of the requests by the business community would change 60 years of tax practices and would significantly reduce city revenues, so these provisions are not likely to obtain voluntary agreement. There are, however, some ideas to clarify language or to better define nexus that may make sense. If they are developed in time, we may bring these changes to the Council prior to action on the model ordinance. Otherwise, we will bring them forward in December or January.

Seattle Version

The attached ordinance represents the Seattle version of the cities model. It follows all of the mandatory provisions of the model and makes relatively few exceptions in the allowable areas. Existing classifications, rates, deductions, and exemptions are preserved, except in the cases where these were changed to comply with the "no multiple taxation" provisions.

Two new tax treatments are implemented as part of this proposal:

- 1) A research and development (R&D) tax credit is created for technology manufacturing businesses. The City has been involved in litigation for the last few years with some software firms to try to resolve whether their activities should be



taxed as manufacturing, services, retailing, or something else. With the Mayor's leadership and after extensive discussions with industry representatives, we agreed that these businesses would be defined as manufacturers and would receive an R&D credit modeled on an existing State credit. Qualifying R&D expenditures within Seattle would receive a credit against their manufacturing B&O taxes due. This should bring consistency to the overall taxation of high technology manufacturing firms and provide an incentive for R&D activities in the city.

- 2) A new "tour operator" classification is created to resolve a longstanding legal question about how such firms should be taxed. The tax rate would change from the current 0.00415 to the new 0.00215. This approach is consistent with the State's.

These two changes are expected to be revenue neutral since the revenue created by improved compliance will offset that lost due to credits and rate changes.

Seattle's version of the model also cleans up several other tax provisions that have been superseded or are administratively burdensome. Most notably, we are eliminating the annual \$1 admissions tax registration fee, which has been a frustration for applicants and costs far more to process than the revenue it generates.

The differences between the existing tax code and the new proposal are described in detail in the Summary Document (Attachment.1). Comments that clarify legislative intent for certain sections of the ordinance are provided in Attachment 2.

Seattle's proposed model ordinance maintains the basic structure of the City's existing tax code and preserves the City's revenue base. It also creates much more uniformity with other cities, eliminates the possibility of multiple taxation of the same gross receipts, provides a credit for the R&D activities of the city's technology companies, and streamlines many of our administrative provisions. We look forward to discussing it with the Council in the near future.

Any questions about the content of the model ordinance should be directed to Mel McDonald at 233-0071. Thank you.

Attachment 1: Comparison Summary for the Seattle Model Business and Occupation Tax Ordinance
Attachment 2: Commentary Regarding Model Ordinance

cc: Mel McDonald, Revenue & Consumer Affairs Director
Tom Kirn, Finance-City Budget Office
Ben Wolters, Office of Economic Development
Cynthia Seu, Law Department
Ben Noble, Council Central Staff



1 **ORDINANCE** _____

2
3 AN ORDINANCE relating to taxation, adopting the provisions of the model business license tax
4 ordinance, creating separate chapters for administrative provisions and definitions
5 governing taxation, repealing chapter 5.44 of the Seattle Municipal Code, and amending
6 and repealing various other sections of the Seattle Municipal Code in connection
7 therewith.

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9 **SECTION 1.** Effective January 1, 2002, Chapter 5.44 of the Seattle Municipal Code is
10 repealed in its entirety.

11 **SECTION 2.** Effective January 1, 2002, a new Chapter 5.45, "Business License Tax", is
12 added to Title 5 of the Seattle Municipal Code as follows:

13 **5.45.010 Exercise of revenue license power.**

14 The provisions of this chapter shall be deemed an exercise of the power of the City to
15 license or tax for revenue. The provisions of this chapter are subject to periodic statutory or
16 administrative rule changes or judicial interpretations of the ordinances or rules. The
17 responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and
18 remain in compliance with the City Code.

19 **5.45.020 Administrative Provisions.**

20 All of the provisions contained in Chapter 5.55 of the Seattle Municipal Code shall have
21 full force and application with respect to taxes or license fees imposed under the provisions of
22 this chapter except as expressly stated to the contrary herein.

23 **5.45.030 Definitions.**



1 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
2 applicable to this chapter except as expressly stated to the contrary herein.

3 **5.45.040 Agency - Sales and services by agent, consignee, bailee, factor or**
4 **auctioneer.**

5 A. Sales in own name - sales or purchases as agent. Every person, including agents,
6 consignees, bailees, factors or auctioneers, having either actual or constructive possession of
7 tangible personal property or having possession of the documents of title thereto, with power to
8 sell such tangible personal property in his or her or its own name and actually so selling shall be
9 deemed the seller of such tangible personal property within the meaning of this chapter.
10

11 The burden shall be upon the taxpayer in every case to establish the fact that such
12 taxpayer is not engaged in the business of selling tangible personal property but is acting merely
13 as broker or agent in promoting sales or making purchases for a principal. Such claim will be
14 recognized only when the contract or agreement between such persons clearly establishes the
15 relationship of principal and agent and when the following conditions are complied with:
16

17 1. The books and records of the broker or agent show the transactions were made
18 in the name and for the account of the principal, and show the name of the actual owner of the
19 property for whom the sale was made, or the actual buyer for whom the purchase was made;

20 2. The books and records show the amount of the principal's gross sales, the
21 amount of commissions and any other incidental income derived by the broker or agent from
22 such sales. The principal's gross sales must not be reflected as the agent's income on any of the
23 agent's books and records. Commissions must be computed according to a set percentage or
24 amount, which is agreed upon in the agency agreement;
25
26
27
28



1 3. No ownership rights may be conferred to the agent unless the principal refuses
2 to pay, or refuses to abide by the agency agreement. Sales or purchases of any goods by a person
3 who has any ownership rights in such goods shall be taxed as retail or wholesale sales; and

4 4. Bulk goods sold or purchased on behalf of a principal must not be co-mingled
5 with goods belonging to another principal or lose their identity as belonging to the particular
6 principal. Sales or purchases of any goods which have been co-mingled or lost their identity as
7 belonging to the principal shall be taxed as retail or wholesale sales.
8

9 B. If the requirements in subsection A above are not met, the consignor, bailor, principal
10 or other shall be deemed a seller of such property to the agent, consignee, bailee, factor or
11 auctioneer.
12

13 C. Services in own name - procuring services as agent. For purposes of this subsection,
14 SMC Section 5.45.040 C, an agent is a person who acts under the direction and control of the
15 principal in procuring services on behalf of the principal that the person could not itself render or
16 supply. Amounts received by an agent for the account of its principal as advances or
17 reimbursements are exempted from the measure of the tax only when the agent is not primarily or
18 secondarily liable to pay for the services procured.
19

20 Any person who claims to be acting merely as agent in obtaining services for a principal
21 will have such claim recognized only when the contract or agreement between such persons
22 clearly establishes the relationship of principal and agent and when the following conditions are
23 complied with:
24



1 1. The books and records of the agent show that the services were obtained in the
2 name and for the account of the principal, and show the actual principal for whom the purchase
3 was made; and

4 2. The books and records show the amount of the service that was obtained for
5 the principal, the amount of commissions and any other income derived by the agent for acting as
6 such. Amounts received from the principal as advances and reimbursements must not be
7 reflected as the agent's income on any of the agent's books and records. Commissions must be
8 computed according to a set percentage or amount, which is agreed upon in the agency
9 agreement.
10

11 **5.45.050 Imposition of the tax - Tax or fee levied.**

12 There is hereby levied upon and shall be collected from every person as hereinafter
13 provided, for the act or privilege of engaging in business activities within the City, whether his or
14 her office or place of business be within or without the City, a business and occupation tax or fee,
15 sometimes herein referred to as the "tax." The tax shall be in amounts to be determined by
16 application of rates against gross proceeds of sale, gross income of business, or value of
17 products, including by-products, as the case may be, as follows:
18

19 A. Upon every person engaging within the City in business as an extractor; as to such
20 persons the amount of the tax with respect to such business shall be equal to the value of the
21 products, including by-products, extracted for sale or for commercial or industrial use, multiplied
22 by the rate of two hundred fifteen one-thousandths of one percent (.00215). The measure of the
23 tax is the value of the products, including by-products, so extracted, regardless of the place of
24 sale or the fact that deliveries may be made to points outside the City.
25
26
27
28



1 B. Upon every person engaging within the City in business as a manufacturer, except
2 persons taxable under subsection D of this Section; as to such persons the amount of the tax with
3 respect to such business shall be equal to the value of the products, including by-products,
4 manufactured or processed, multiplied by the rate of two hundred fifteen one-thousandths of one
5 percent (.00215). The measure of the tax is the value of the products, including by-products, so
6 manufactured or processed, regardless of the place of sale or the fact that deliveries may be made
7 to points outside the City.
8

9 C. Upon every person engaging within the City in the business of making sales at
10 wholesale or retail (including public road construction), except persons taxable under subsection
11 D of this section; as to such persons, the amount of tax with respect to such business shall be
12 equal to the gross proceeds of such sales of the business without regard to the place of delivery of
13 articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen one-
14 thousandths of one percent (.00215).
15

16 D. Upon every person engaging within the City in the business of:
17

18 1. Buying wheat, oats, corn, barley and rye, but not including any manufactured
19 or processed products thereof, and selling the same at wholesale, the tax imposed shall be equal
20 to the gross proceeds of such sales of the business without regard to the place of delivery of
21 articles, commodities or merchandise sold, multiplied by the rate of two hundred fifteen ten-
22 thousandths of one percent (.000215); or
23

24 2. Manufacturing wheat into flour; the tax imposed shall be equal to the value of
25 the flour manufactured, multiplied by the rate of two hundred fifteen ten-thousandths of one
26 percent (.000215).
27
28



1 E. Upon every person engaging within the City in the business of:

- 2 1. printing;
- 3 2. both printing and publishing newspapers, magazines, periodicals, books,
- 4 music, and other items;
- 5 3. publishing newspapers, magazines and periodicals;
- 6 4. processing for hire; or
- 7 5. conducting a tour operator business;

8

9 as to such persons, the amount of tax on such business shall be equal to the gross income of the

10 business multiplied by the rate of two hundred fifteen one-thousandths of one percent (.00215).

11 F. Upon every other person engaging within the City in any business activity other than

12 or in addition to those enumerated in the above subsections; as to such persons, the amount of tax

13 on account of such activities shall be equal to the gross income of the business multiplied by the

14 rate of four hundred fifteen one-thousandths of one percent (.00415). This subsection includes,

15 among others, and without limiting the scope hereof (whether or not title to material used in the

16 performance of such business passes to another by accession, merger or other than by outright

17 sale), persons engaged in the business of developing, or producing custom software or of

18 customizing canned software, and persons engaged in the business of rendering any type of

19 service which does not constitute a sale at retail or a sale at wholesale.

20

21

22 **5.45.060 Doing business with the City.**

23

24 Except where such a tax is otherwise levied and collected by the City from such person,

25 there is hereby levied a tax on the privilege of accepting or executing a contract with the City

26 involving the sale to the City of materials, supplies, equipment, improvements or contractual

27

1 services. Such tax shall be levied and collected whether the goods or services are delivered
2 within or without the City and whether or not such person has an office or place of business
3 within or without the City.

4 As to such persons the amount of tax shall be equal to the gross contract price multiplied
5 by the rate under SMC Section 5.45.050 that would otherwise apply if the sale or service were
6 taxable pursuant to that section. The gross contract price shall be allocated to the city with which
7 the contract is made. No other city shall have jurisdiction to tax the gross receipts from such
8 contract. The gross contract price may not be reduced by the deduction contained in SMC
9 Section 5.45.100 Q or the interstate deduction SMC Section 5.45.100 T.
10

11 A. The tax levied in this section shall not be levied when:
12

13 1. The aggregate value of all City contracts with the person during the calendar
14 year is Five Thousand Dollars (\$5,000) or less, or

15 2. The person's only source of revenue consists of contracts with the City for
16 neighborhood planning purposes, sister city associations, or Arts Commission grants, and
17 is less than the taxable threshold amount provided in SMC Section 5.55.040 D.
18

19 B. All persons subject to this section, other than those exempted by subsection (A)
20 above, are required to obtain and maintain a business license as prescribed by SMC Section
21 5.55.030.
22

23 C. This section applies to the City and organizations chartered by the City, including but
24 not limited to, contracts with the Seattle City Employee's Retirement System, the Police Pension
25 Fund, the Fire Fighters Pension Fund, Public Safety Civil Service Commission, and any and all
26 public development authorities chartered by the City.
27



1 D. All persons are required to pay in full all taxes or fees due under this chapter on
2 account of such contract, or otherwise, before accepting any warrant as final payment for
3 performing any contract for the City. The Director of Finance may withhold payment due a City
4 contractor pending satisfactory resolution of unpaid taxes and fees due the City under this title.

5
6 **5.45.070 Multiple activities credit when activities take place in one or more**
7 **cities with eligible gross receipt taxes.**

8 A. Persons who engage in business activities that are within the purview of two (2) or
9 more subsections of SMC Section 5.45.050 shall be taxable under each applicable subsection.

10 B. If imposition of the City's tax would place an undue burden upon interstate commerce
11 or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary
12 to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's
13 activities as may be subject to the City's taxing authority.

14
15 C. To take the credit authorized by this section, a taxpayer must be able to document that
16 the amount of tax sought to be credited was paid upon the same gross receipts used in computing
17 the tax against which the credit is applied and that the taxpayer paid the amount of tax sought to
18 be credited. In order to qualify as an "eligible gross receipts tax," the tax must be imposed at the
19 local level.

20
21 D. Credit for persons that sell in the City products that they extract or manufacture.
22 Persons taxable under the retailing or wholesaling classification with respect to selling products
23 in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid:

- 24
25 1. with respect to the manufacturing of the products sold in the City; and
26
27
28

1 2. with respect to the extracting of the products, or the ingredients used in the products,
2 sold in the City.

3 The amount of the credit shall not exceed the tax liability arising under this chapter with
4 respect to the sale of those products.

5 E. Credit for persons that manufacture products in the City using ingredients they extract.

6
7 Persons taxable under the manufacturing classification with respect to manufacturing products in
8 this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with
9 respect to extracting the ingredients of the products manufactured in the City. The amount of the
10 credit shall not exceed the tax liability arising under this chapter with respect to the
11 manufacturing of those products.
12

13 F. Credit for persons that sell within the City products that they print, or publish and
14 print. Persons taxable under the retailing or wholesaling classification with respect to selling
15 products in this City shall be allowed a credit against those taxes for any eligible gross receipts
16 taxes paid with respect to the printing, or the printing and publishing, of the products sold within
17 the City. The amount of the credit shall not exceed the tax liability arising under this chapter
18 with respect to the sale of those products.
19

20 **5.45.090 Exemptions.**

21 The provisions of this Chapter 5.45 shall not apply to the following:

22 A. Non-profit adult family homes. This chapter does not apply to non-profit adult family
23 homes which are licensed as such, or which are specifically exempt from licensing, under rules
24 of the Washington State Department of Social and Health Services.
25

26 B. Day care provided by churches. This chapter shall not apply to amounts derived by a
27
28



1 church that is exempt from property tax under RCW 84.36.020 from the provision of care for
2 children for periods of less than twenty-four (24) hours.

3 C. Child care resource and referral services by non-profit organizations. This chapter
4 does not apply to non-profit organizations in respect to amounts derived from the provision of
5 child-care resource and referral services.

6
7 D. Non-profit organizations that are guarantee agencies, issue debt, or provide guarantees
8 for student loans. This chapter does not apply to gross income received by non-profit
9 organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue
10 Code of 1986, as amended, that:

- 11 1. Are guarantee agencies under the federal guaranteed student loan program or
12 that issue debt to provide or acquire student loans; or
- 13 2. Provide guarantees for student loans made through programs other than the
14 federal guaranteed student loan program.

15
16 E. Non-profit organizations - credit and debt services. This chapter does not apply to
17 non-profit organizations in respect to amounts derived from provision of the following services:

- 18 1. Presenting individual and community credit education programs including
19 credit and debt counseling;
- 20 2. Obtaining creditor cooperation allowing a debtor to repay debt in an orderly
21 manner;
- 22 3. Establishing and administering negotiated repayment programs for debtors; or
- 23 4. Providing advice or assistance to a debtor with regard to 1, 2, or 3, above, of
24 this subsection (E).



1 F. Certain fraternal and beneficiary organizations. This chapter shall not apply to
2 fraternal benefit societies or fraternal fire insurance associations, as described in Title 48 RCW;
3 nor to beneficiary corporations or societies organized under and existing by virtue of Title 24
4 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of
5 death benefits. This exemption is limited, however, to gross income from premiums, fees,
6 assessments, dues or other charges directly attributable to the insurance or death benefits
7 provided by such societies, associations, or corporations.
8

9 G. Certain corporations furnishing aid and relief. This chapter shall not apply to the
10 gross sales or the gross income received by corporations which have been incorporated under any
11 act of the congress of the United States of America and whose principal purposes are to furnish
12 volunteer aid to members of the armed forces of the United States and also to carry on a system
13 of national and international relief and to apply the same in mitigating the sufferings caused by
14 pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures
15 for preventing the same.
16

17 H. Operation of sheltered workshops. This chapter shall not apply to income received
18 from the Department of Social and Health Services for the cost of care, maintenance, support,
19 and training of persons with developmental disabilities at non-profit group training homes as
20 defined by RCW chapter 71A.22 or to the business activities of non-profit organizations from the
21 operation of sheltered workshops. For the purposes of this subsection, SMC 5.45.090 H, "the
22 operation of sheltered workshops" means performance of business activities of any kind on or off
23 the premises of such non-profit organizations which are performed for the primary purpose of:
24
25
26
27
28



1 1. providing gainful employment or rehabilitation services to the handicapped or
2 disabled as an interim step in the rehabilitation process for those who cannot be readily absorbed
3 in the competitive labor market or during such time as employment opportunities for them in the
4 competitive labor market do not exist; or

5 2. providing evaluation and work adjustment services for handicapped or disabled
6 individuals.

7
8 I. Credit unions. This chapter shall not apply to the gross income of credit unions
9 organized under the laws of this state, any other state, or the United States.

10 J. Certain hospitals and clinics. This chapter shall not apply to the gross income received
11 by the United States or any instrumentality thereof, by the state, or any municipal subdivision
12 thereof, or by any religious society, religious association or religious corporation, through the
13 operation of any hospital, clinic, resort or other institution devoted exclusively to the care or
14 healing of human beings; provided, that no exemption is granted where the income therefrom
15 inures to the benefit of any physician, surgeon, stockholder or individual by virtue of ownership
16 or control of such hospital, clinic, resort or other institution.

17
18 K. Gross receipts taxed under other Seattle Municipal Code (SMC) Sections. This
19 chapter shall not apply to any person in respect to a business activity with respect to which tax
20 liability is specifically imposed under the provisions of SMC 5.48 or SMC 5.52.030(B)(1) and
21 (B)(3) (bona fide charitable or non-profit organization gambling activity, bingo, raffle and
22 fundraising activities), as amended.

23
24 L. Investments - dividends from subsidiary corporations. This chapter shall not apply to
25
26
27
28



1 amounts derived by persons, other than those engaging in banking, loan, security, or other
2 financial businesses, from investments or the use of money as such, and also amounts derived as
3 dividends by a parent from its subsidiary corporations.

4 M. International banking facilities. This chapter shall not apply to the gross receipts of
5 an international banking facility. As used in this subsection, SMC 5.45.090 (M), an
6 "international banking facility" means a facility represented by a set of asset and liability
7 accounts segregated on the books and records of a commercial bank, the principal office of which
8 is located in this state, and which is incorporated and doing business under the laws of the United
9 States or of this state, a United States branch or agency of a foreign bank, an Edge corporation
10 organized under Section 25(A) of the Federal Reserve Act, 12 United States Code 611-631, or an
11 Agreement corporation having an agreement or undertaking with the Board of Governors of the
12 Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code
13 601-604(a), that includes only international banking facility time deposits (as defined in
14 subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the
15 Board of Governors of the Federal Reserve System), and international banking facility extensions
16 of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D).

17
18
19
20 N. Insurance business. This chapter shall not apply to amounts received by any person or
21 agent who is an insurer upon which a tax based on gross premiums is paid to the state
22 pursuant to RCW 48.14.020; provided that the provisions of this subsection shall not
23 exempt any person engaging in the business of insurance as a broker as defined in RCW
24 48.17.020 or as a solicitor as defined in RCW 48.17.030; and provided further, that the
25 provisions of this subsection shall not exempt any bonding company from tax with
26
27
28



1 respect to gross income derived from the completion of any contract as to which it is a
2 surety, or as to any liability as successor to the liability of the defaulting contractor.

3 O. Farmers - agriculture. This chapter shall not apply to any farmer in respect to
4 amounts received from selling fruits, vegetables, berries, butter, eggs, fish, milk poultry, meats or
5 any other agricultural product that is raised, caught, produced, or manufactured by such persons.
6

7 P. Athletic exhibitions. This chapter shall not apply to any person in respect to the
8 business of conducting boxing contests and sparring or wrestling matches and exhibitions for the
9 conduct of which a license must be secured from the State Boxing Commission.

10 Q. Racing. This chapter shall not apply to any person in respect to the business of
11 conducting race meets for the conduct of which a license must be secured from the Washington
12 State Horse Racing Commission.
13

14 R. Ride sharing. This chapter does not apply to any funds received in the course of
15 commuter ride sharing or ride sharing for persons with special transportation needs in accordance
16 with RCW 46.74.010.
17

18 S. Employees. This chapter shall not apply to any person in respect to his or her
19 employment in the capacity as an employee or servant as distinguished from that of an
20 independent contractor. For the purposes of this subsection, SMC 5.45.090 (S), the definition of
21 employee shall include those persons that are defined in section 3121(d)(3)(B) of the Internal
22 Revenue Code of 1986, as amended through January 1, 1991. For purposes of this Chapter, a
23 booth renter, as defined by RCW 18.16.020, is an independent contractor.
24

25 T. Amounts derived from sale of real estate. This chapter shall not apply to gross
26 proceeds derived from the sale of real estate. This, however, shall not be construed to allow an
27
28



1 exemption of amounts received as commissions from the sale of real estate, nor as fees, handling
2 charges, discounts, interest or similar financial charges resulting from, or relating to, real estate
3 transactions.

4 U. Mortgage brokers' third-party provider services trust accounts. This chapter shall not
5 apply to amounts received from trust accounts to mortgage brokers for the payment of third-party
6 costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules
7 adopted by the director of financial institutions.
8

9 V. Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This
10 chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the
11 term "motor vehicle fuel" is defined in RCW 82.36.010 and exempted under RCW 82.36.440,
12 provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction
13 or exemption, will be taxable under this chapter.
14

15 W. Amounts derived from liquor, and the sale or distribution of liquor. This chapter
16 shall not apply to liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.
17

18 X. Casual and isolated sales. This chapter shall not apply to the gross proceeds derived
19 from casual or isolated sales.

20 Y. Health maintenance organization, health care service contractor, certified health plan.
21 Beginning on January 1, 2000, this chapter does not apply to any health maintenance
22 organization, health care service contractor, or certified health plan in respect to premiums or
23 prepayments that are taxable under RCW 48.14.0201. This exemption is limited to premiums
24 and payments for health benefit plans offered by health care service contractors under RCW
25 chapter 48.44 and health maintenance organizations under RCW chapter 48.46 and does not
26
27
28



1 apply to health care services directly delivered by the employees of a health maintenance
2 organization under RCW chapter 48.46.

3 Z. Accommodation sales. This chapter shall not apply to sales for resale by persons
4 regularly engaged in the business of making sales of the type of property so sold to other persons
5 similarly engaged in the business of selling such property where:

6
7 1. the amount paid by the buyer does not exceed the amount paid by the seller
8 to his vendor in the acquisition of the article; and

9 2. the sale is made as an accommodation to the buyer to enable him to fill a
10 bona fide existing order of a customer or is made within fourteen (14) days to reimburse in kind a
11 previous accommodation sale by the buyer to the seller.
12

13 Provided, that where the seller holds himself or herself out as being regularly engaged in
14 the business of making sales at wholesale of such property, such sales shall be included in his
15 principal business activity, and not exempt from tax.

16 **5.45.100 Deductions.**

17 In computing the license fee or tax, the following may be deducted from the measure of
18 tax:
19

20 A. Membership fees and certain service fees by non-profit youth organization. For
21 purposes of this subsection, SMC 5.45.100 A, "non-profit youth organization" means a
22 non-profit organization engaged in character building of youth which is exempt from property tax
23 under RCW 84.36.030. In computing tax due under this chapter, there may be deducted from the
24 measure of tax all amounts received by a non-profit youth organization:
25

26 1. As membership fees or dues, irrespective of the fact that the payment of the
27
28



1 membership fees or dues to the organization may entitle its members, in addition to other rights
2 or privileges, to receive services from the organization or to use the organization's facilities; or

3 From members of the organization for camping and recreational services
4 provided by the organization or for the use of the organization's camping and recreational
5 facilities.
6

7 B. Fees, dues, charges. In computing tax, there may be deducted from the measure of tax
8 amounts derived from bona fide:

- 9 1. initiation fees;
- 10 2. dues;
- 11 3. contributions;
- 12 4. donations;
- 13 5. tuition fees;
- 14 6. charges made by a non-profit trade or professional organization for attending
15 or occupying space at a trade show, convention, or educational seminar sponsored by the
16 non-profit trade or professional organization, which trade show, convention, or educational
17 seminar is not open to the general public;
- 18 7. charges made for operation of privately operated kindergartens; and
- 19 8. endowment funds.

20 This subsection, SMC 5.45.100 B, shall not be construed to exempt any person,
21 association, or society from tax liability upon selling tangible personal property or upon
22 providing facilities or services for which a special charge is made to members or others. If dues
23 are in exchange for any significant amount of goods or services rendered by the recipient thereof
24
25
26
27
28



1 to members without any additional charge to the member, or if the dues are graduated upon the
2 amount of goods or services rendered, the value of such goods or services shall not be considered
3 as a deduction under this subsection.

4 C. Artistic and cultural organizations - income from business activities. In computing
5 tax, there may be deducted from the measure of tax those amounts received by artistic or cultural
6 organizations, as defined in SMC Section 5.30.020, which represent:
7

8 1. income derived from business activities conducted by the organization,
9 provided that this deduction does not apply to retail sales made by artistic and cultural
10 organizations (the rental of space and the casual sales of props and fixtures used in artistic
11 or culture productions will be exempt from tax);
12

13 2. amounts received from the United States or any instrumentality thereof or from
14 the State of Washington or any municipal corporation or subdivision thereof as
15 compensation for, or to support, artistic or cultural exhibitions, performances, or
16 programs provided by an artistic or cultural organization for attendance or viewing by the
17 general public; or
18

19 3. amounts received as tuition charges collected for the privilege of attending
20 artistic or cultural education programs.

21 D. Artistic or cultural organization - deduction for tax under the manufacturing
22 classification - value of articles for use in displaying art objects or presenting artistic or cultural
23 exhibitions, performances, or programs. In computing tax, there may be deducted from the
24 measure of tax by persons subject to payment of the tax under the manufacturing classification,
25 the value of articles to the extent manufacturing activities are undertaken by an artistic or cultural
26
27
28



1 organization, as defined in SMC Section 5.30.020, solely for the purpose of manufacturing
2 articles for use by the organization in displaying art objects or presenting artistic or cultural
3 exhibitions, performances, or programs for attendance or viewing by the general public.

4 E. Day care activities. In computing tax, there may be deducted from the measure of tax
5 amounts derived from day care activities (for periods less than 24 hours) by any organization
6 organized and operated for charitable, educational, or other purposes which is exempt from
7 taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
8 provided, however, that amounts derived from selling, altering or repairing tangible personal
9 property shall not be deductible.
10

11 F. Compensation from public entities for health or social welfare services-exception. In
12 computing tax, there may be deducted from the measure of tax amounts received from the United
13 States or any instrumentality thereof or from the State of Washington or any municipal
14 corporation or political subdivision thereof as compensation for, or to support, health or social
15 welfare services rendered by a health or social welfare organization (as defined in RCW
16 82.04.431) or by a municipal corporation or political subdivision, except deductions are not
17 allowed under this section for amounts that are received under an employee benefit plan. For
18 purposes of this subsection, SMC 5.45.100 (F), "employee benefit plan" includes the military
19 benefits program authorized in 10 U.S.C. Sec. 1071 et seq., as amended, or amounts payable
20 pursuant thereto.
21
22
23

24 G. Interest on investments or loans secured by mortgages or deeds of trust. In computing
25
26
27
28

1 tax, there may be deducted from the measure of tax by those engaged in banking, loan, security
2 or other financial businesses, amounts derived from interest received on investments or loans
3 primarily secured by first mortgages or trust deeds on non-transient residential properties.

4 H. Interest on obligations of the state, its political subdivisions, and municipal
5 corporations. In computing tax, there may be deducted from the measure of tax by those engaged
6 in banking, loan, security or other financial businesses, amounts derived from interest paid on all
7 obligations of the State of Washington, its political subdivisions, and municipal corporations
8 organized pursuant to the laws thereof.

9 I. Interest on loans to farmers and ranchers, producers or harvesters of aquatic products,
10 or their cooperatives. In computing tax, there may be deducted from the measure of tax amounts
11 derived as interest on loans to bona fide farmers and ranchers, producers or harvesters of aquatic
12 products, or their cooperatives by a lending institution which is owned exclusively by its
13 borrowers or members and which is engaged solely in the business of making loans and
14 providing finance-related services to bona fide farmers and ranchers, producers or harvesters of
15 aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing
16 farm-related or aquatic-related services to these individuals or entities.

17 J. Receipts from the sale of tangible personal property delivered outside the State. In
18 computing tax, there may be deducted from the measure of tax under retailing or wholesaling
19 amounts derived from the sale of tangible personal property that is received by the purchaser or
20 its agent outside the State of Washington.

21 K. Cash discount taken by purchaser. In computing tax, there may be deducted from the
22 measure of tax the amount of cash discount actually taken by the purchaser. This deduction is
23
24
25
26
27
28



1 not allowed in arriving at the taxable amount under the extracting or manufacturing
2 classifications with respect to articles produced or manufactured, the reported values of which,
3 for the purposes of this tax, have been computed according to the "value of product" provisions.

4 L. Credit losses of accrual basis taxpayers. In computing tax, there may be deducted
5 from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular
6 books of account are kept upon an accrual basis.

7
8 M. Repair, maintenance, replacement, etc., of residential structures and commonly held
9 property - eligible organizations.

10 1. In computing tax, there may be deducted from the measure of tax amounts
11 used solely for repair, maintenance, replacement, management, or improvement of the
12 residential structures and commonly held property, but excluding property where fees or
13 charges are made for use by the public who are not guests accompanied by a member,
14 which are derived by:

15
16 a. A cooperative housing association, corporation, or partnership from a
17 person who resides in a structure owned by the cooperative housing association, corporation, or
18 partnership;

19
20 b. An "association of apartment owners", as defined in RCW 64.32.010,
21 as now or hereafter amended, from a person who is an "apartment owner" as defined in RCW
22 64.32.010; or

23
24 c. An association of owners of residential property from a person who is a
25 member of the association. "Association of owners of residential property" means any
26
27
28



1 organization of all the owners of residential property in a defined area who all hold the same
2 property in common within the area.

3 2. For the purposes of this section "commonly held property" includes areas
4 required for common access such as reception areas, halls, stairways, parking, etc., and may
5 include recreation rooms, swimming pools and small parks or recreation areas; but is not
6 intended to include more grounds than are normally required in a residential area, or to include
7 such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating
8 areas, etc.
9

10 3. To qualify for the deductions under this section:

11 a. The salary or compensation paid to officers, managers, or employees must be
12 only for actual services rendered and at levels comparable to the salary or compensation of like
13 positions within the county wherein the property is located;
14

15 b. Dues, fees, or assessments in excess of amounts needed for the purposes for
16 which the deduction is allowed must be rebated to the members of the association; and
17

18 c. Assets of the association or organization must be distributable to all members
19 and must not inure to the benefit of any single member or group of members.

20 N. Sales at wholesale or retail of precious metal bullion and monetized bullion. In
21 computing tax, there may be deducted from gross income amounts derived from the sale at
22 wholesale or retail of precious metal bullion and monetized bullion. However, no deduction is
23 allowed of amounts received as commissions upon transactions for the accounts of customers
24 over and above the amount paid to other dealers associated in such transactions, and no
25
26
27
28



1 deduction or offset is allowed against such commissions on account of salaries or commissions
2 paid to salesmen or other employees.

3 O. Amounts representing rental of real estate for boarding homes. In computing tax,
4 there may be deducted from the measure of the tax amounts representing the value of
5 the rental of real estate for "boarding homes." To qualify for the deduction, the
6 boarding home must meet the definition of "boarding home" found in RCW
7 18.20.020, and must be licensed by the State of Washington under RCW Chapter
8 18.20. The deduction shall be in the amount of twenty-five (25) percent of the gross
9 monthly billing when the boarder has resided within the boarding home for longer
10 than thirty (30) days.

11
12
13 P. Radio and television broadcasting - advertising agency fees - national, regional, and
14 network advertising - interstate allocations. In computing tax, there may be deducted
15 from the measure of the tax by radio and television broadcasters amounts representing
16 the following:

- 17 1. advertising agencies' fees when such fees or allowances are shown as a
18 discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount;
- 19 2. actual gross receipts from national network, and regional advertising or a
20 "standard deduction" as provided by RCW 82.04.280; and
21
- 22 3. local advertising revenue that represents advertising which is intended to reach
23 potential customers of the advertiser who are located outside the State of Washington.

24 The Director may issue a rule that provides detailed guidance as to how these deductions are to
25 be calculated.
26



1 Q. Amounts subject to an eligible gross receipts tax in another city on the same activity.

2 1. A person that is subject to an eligible gross receipts tax on the same activity in
3 more than one jurisdiction may deduct from the measure of the tax on such activity those
4 amounts the person used in measuring the eligible gross receipts tax paid to the other jurisdiction
5 where delivery of the product or the performance of the activity occurred, or, if delivery or
6 performance does not occur in the other jurisdiction, then where the customer is located. If
7 neither delivery nor performance occurs, or the customer is not located, within the jurisdiction
8 imposing an eligible gross receipts tax, then the Director shall determine, pursuant to his
9 authority under SMC Section 5.55.170, whether a deduction is allowed.
10

11 2. Notwithstanding subsection (Q)(1) above, a person that is subject to an eligible
12 gross receipts tax in more than one jurisdiction on the gross income derived from intangibles
13 such as royalties, trademarks, patents, or goodwill may deduct from the measure of the tax those
14 amounts of gross income used in measuring the eligible gross receipts tax paid to the other
15 jurisdiction where the headquarters is located. If tax is not paid where the headquarters is
16 located, then the Director shall determine, pursuant to his authority under SMC Section 5.55.170,
17 whether a deduction is allowed.
18

19 R. Person manufacturing products within and without. In computing tax, a person
20 manufacturing products within the City using products the person manufactured outside the City
21 may deduct from the measure of the manufacturing tax the value of products manufactured
22 outside the City and included in the measure of an eligible gross receipts tax paid with respect to
23 manufacturing such products.
24
25
26
27
28



1 S. Taxes collected as trust funds by the taxpayer from a third party for payment to the
2 taxing jurisdiction. In computing tax, the taxpayer may deduct from the measure of the tax
3 amounts collected for the benefit of the taxing jurisdiction by the taxpayer from third parties to
4 satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

5 T. Constitutional prohibitions. In computing tax, there may be deducted from the
6 measure of the tax amounts derived from business which the City is prohibited from taxing under
7 the Constitution of the State of Washington or the Constitution of the United States.

8 U. Distribution Affiliate or Cooperative. In computing tax, there may be deducted from
9 the measure of the tax an amount equal to the actual cost of the merchandise that a distribution
10 cooperative or its distribution affiliate sells to a customer-owner of the distribution cooperative
11 for the customer-owner's resale at retail. Actual cost means the cost actually paid by the
12 distribution cooperative or distribution affiliate after taking into account all cash discounts and
13 other price reductions.
14
15

16
17
18 **5.45.105 High Technology Manufacturer Research and Development Credit.**
19 (Expires December 31, 2006)

20
21 A. In computing the manufacturing tax imposed under this chapter, a credit is
22 allowed for each person whose qualified research and development expenditures during the year
23 for which the credit is claimed exceeds five percent of the person's taxable amount during the
24 same calendar year.
25
26
27
28



1 B. The credit is equal to the amount of qualified research and development
2 expenditures made during the calendar year multiplied by .67 percent. The amount of the credit
3 shall not exceed the amount of manufacturing tax due for the same calendar year in which the
4 credit is claimed reduced by any credit against the manufacturing tax allowed under SMC
5 Section 5.45.070.

6
7 C. Each person claiming the credit shall file an affidavit, as prescribed by the
8 director, with the tax return on which the credit is claimed. Such affidavit shall state the amount
9 of the credit claimed, an estimate of the anticipated qualified research and development
10 expenditures during the calendar year for which the credit is claimed, an estimate of the taxable
11 amount during the same calendar year, and such additional information as the director may
12 prescribe.

13
14 D. Any person claiming the credit, and then failing to meet the five percent
15 requirement contained in subsection A, shall be liable for payment of the taxes represented by the
16 amount of the credit claimed, together with interest, but not penalties. Interest shall be due at the
17 rate provided for in SMC 5.55.090 B retroactively to the date the credit was claimed until the
18 taxes are paid.

19
20 E. For the purpose of this section, the following definitions apply:

21
22 1. "Advanced computing", "Advanced materials", "Biotechnology", "Electronic
23 device technology", and "Environmental technology" have the same meanings as
24 contained in RCW 82.63.010.
25
26
27
28



1 2. "Qualified research and development expenditures" means expenses paid or
2 accrued by persons in the businesses of advanced computing, advanced materials,
3 biotechnology, electronic device technology, or environmental technology solely for
4 research and development activities conducted within the City, and for no other purpose.
5 The term "qualified research and development expenditures" does not include costs that a
6 person is required to capitalize rather than expense for federal income tax purposes.
7
8 "Qualified research and development expenditures" include expenses for wages, benefits,
9 supplies, and materials. The term does not include costs for land, or structures or other
10 depreciable property, because those costs must be capitalized. Nor does the term include
11 costs for overhead, indirect management or supervision, accounting, or other costs not
12 incurred solely for research and development activities. "Qualified research and
13 development expenditures" also means eighty percent of the charges paid to another
14 person for research and development activities conducted within the City but only if the
15 expenditure is (1) made pursuant to a written agreement between the parties stating the
16 type of research and development to be conducted, and (2) recognized by the person
17 claiming the credit in the calendar year in which the research and development is
18 conducted. Qualified research and development expenditures are expenditures for
19 research and development activities that are conducted within the City whether by the
20 person seeking the credit or a third party. Expenditures for research and development
21 activities conducted outside the City do not meet the definition of "qualified research and
22 development expenditures."
23
24
25
26
27
28



1 3. "Research and development activities" means activities conducted within the
2 City for the purpose of discovering technological information intended to be useful in the
3 development and manufacture of a new or improved product, process, technique, formula,
4 invention, or canned software that will be held for sale, lease or license. The activities must
5 relate to the development of a new or improved function, performance, reliability, or quality.
6 The term includes exploration of a new use for an existing drug, device, or biological product if
7 the new use requires separate licensing by the federal food and drug administration under chapter
8 21, C.F.R., as now existing or hereafter amended. Research and development is completed when
9 the product can be produced commercially. Research and development activities are not: (a)
10 Activities related to style, taste, cosmetic or seasonal design factors; (b) Post commercial
11 production testing; (c) Activities related to adapting a product or substance to a particular
12 customer's needs; (d) Duplication or reproduction activities; (e) Conducting or preparing surveys
13 or studies relating to efficiency, management, market research, or testing or development, (f)
14 Advertising and promotions, (g) Collecting routine data not related to the development effort, (h)
15 Routine quality control testing or inspection not related to the development effort; (i)
16 Development of computer software intended for the use of the developer and not shared or used
17 by persons other than the developer; and (j) Funded research.

18
19 4. "Taxable amount" means the gross amount subject to the manufacturing tax
20 imposed in this chapter and required to be reported on the person's business and occupation tax
21 return during the calendar year for which the credit is claimed, less any gross amount on which a
22 tax allowed as a credit against manufacturing tax under SMC Section 5.45.070 is calculated.

23
24
25
26 **5.45.110 Application to City's business activities.**

1 Any department, division, employee association, or other subsection of the City that
2 engages in any business activity which if engaged in by any person would, under this chapter or
3 SMC Chapter 5.55, require a business license and the payment of any tax or fee shall make
4 application, file returns, and pay any taxes or fees imposed by this chapter or SMC Chapter 5.55.

5
6 **5.45.120 Tax part of operating overhead.**

7 It is not the intention of this chapter that the taxes or fees herein levied upon persons
8 engaging in business be construed as taxes or fees upon the purchasers or customer, but that such
9 taxes or fees shall be levied upon, and collectible from, the person engaging in the business
10 activities herein designated and that such taxes or fees shall constitute a part of the operating
11 overhead or cost of doing business of such persons.
12

13
14 **5.45.130 Severability.**

15 If any part, provision or section of this chapter is held to be void or unconstitutional, all
16 other parts, provisions, and sections of this chapter not expressly so held to be void or
17 unconstitutional shall continue in full force and effect.
18

19 **SECTION 3.** Effective January 1, 2002, a new Chapter 5.30 is added to Title 5 of the
20 Seattle Municipal Code as follows:

21 **5.30.010 Definition provisions.**

22 The definitions contained in this chapter shall apply to the following chapters of the Seattle
23 Municipal Code: Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business
24 and Occupation Taxes), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and 5.55 (Administrative
25 Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters
26
27
28

1 and sections of the Seattle Municipal Code in the manner and to the extent as expressly indicated
2 in each chapter or section. Words in the singular number shall include the plural and the plural
3 shall include the singular. Words in one gender shall include both genders.

4 **5.30.020 Definitions, A-B.**

5 **1. "Advance," "reimbursement."**

6 a. "Advance" means money or credits received by a taxpayer from a customer or
7 client with which the taxpayer is to pay costs or fees of the customer or client.
8

9 b. "Reimbursement" means money or credits received from a customer or client
10 to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees
11 of the customer or client.
12

13 **2. "Agricultural product," "farmer."**

14 a. "Agricultural product" means any product of plant cultivation or animal
15 husbandry including, but not limited to: A product of horticulture, grain cultivation,
16 vermiculture, viticulture, or "aquaculture" as defined in RCW 15.85.020; plantation
17 Christmas trees; turf; or any animal including but not limited to an animal that is a
18 "private sector cultured aquatic product" as defined in RCW 15.85.020, or a bird, or
19 insect, or the substances obtained from such an animal. "Agricultural product" does not
20 include animals intended to be pets.
21

22 b. "Farmer" means any person engaged in the business of growing or producing,
23 upon the person's own lands or upon the lands in which the person has a present right of
24 possession, any agricultural product whatsoever for sale. "Farmer" does not include a person
25 using such products as ingredients in a manufacturing process, or a person growing or producing
26
27
28



1 such products for the person's own consumption. "Farmer" does not include a person selling any
2 animal or substance obtained therefrom in connection with the person's business of operating a
3 stockyard or a slaughter or packing house. "Farmer" does not include any person in respect to the
4 business of taking, cultivating, or raising timber.

5 3. **"Amusement device."** Any machine or device which provides recreation or
6 entertainment for which a charge is made for use or play, and includes, but is not limited to, pool
7 and billiard tables, shuffleboards, music machines, video games, pinball games, riding devices,
8 panoram and peepshow devices, televisions and devices for display of pictures or views on film;
9 provided, that it does not mean or include any machine or device used exclusively for the
10 vending of merchandise.
11

12 4. **"Artistic or cultural organization."** As used in this chapter:

13 a. The term "artistic or cultural organization" means an organization which is
14 organized and operated exclusively for the purpose of providing "artistic or cultural exhibitions,
15 presentations, or performances or cultural or art education programs," as defined in subsection
16 (j), below, of this subsection, for viewing or attendance by the general public.
17

18 b. The organization must be a not-for-profit corporation under RCW Chapter
19 24.03.
20

21 c. The organization must be managed by a governing board of not less than eight
22 (8) individuals none of whom is a paid employee of the organization or by a corporation sole
23 under RCW Chapter 24.12.
24
25
26
27
28



1 d. No part of the organization's income may be paid directly or indirectly to its
2 members, stockholders, officers, directors, or trustees except in the form of services rendered by
3 the organization in accordance with its purposes and bylaws.

4 e. Salary or compensation paid to its officers and executives must be only for
5 actual services rendered, and at levels comparable to the salary or compensation of like positions
6 within the state.

7
8 f. Assets of the organization must be irrevocably dedicated to the activities for
9 which the exemption is granted and, on the liquidation, dissolution, or abandonment by the
10 organization, may not inure directly or indirectly to the benefit of any member or individual
11 except a non-profit organization, association, or corporation which also would be entitled to the
12 exemption.

13
14 g. The organization must be duly licensed or certified when licensing or
15 certification is required by law or regulation.

16
17 h. The amounts received that qualify for exemption must be used for the activities
18 for which the exemption is granted.

19 i. Services must be available regardless of race, color, national origin, or ancestry.

20 j. The term "artistic or cultural exhibitions, presentations, or performances or
21 cultural or art education programs" is limited to:

22 i. An exhibition or presentation of works of art or objects of cultural or
23 historical significance, such as those commonly displayed in art or history museums;

24 ii. A musical or dramatic performance or series of performances; or
25
26
27
28

1 iii. An educational seminar or program, or series of such programs,
2 offered by the organization to the general public on an artistic, cultural, or historical subject.

3 5. **"Bona-fide charitable organization"** means an organization that meets all of the
4 requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and
5 operated primarily to provide charitable services as defined by WAC 230-02-160. This term is
6 used in conjunction with the gambling tax provisions contained in SMC Chapter 5.52.

7
8 6. **"Bona-fide nonprofit organization"** means an organization that meets all of the
9 requirements of RCW 9.46.0209. This term is used in conjunction with the gambling tax
10 provisions contained in SMC Chapter 5.52.

11
12 **5.30.025 Definitions, C-E.**

13 1. **"Cash discount"** means a deduction from the invoiced amount allowed by the seller if
14 the bill is paid within a certain time period or before a specified date.

15 2. **"Cellular telephone service"** is a voice or data telephone/telecommunications system
16 based in whole or substantial part on wireless radio communications, whether or not the
17 communications are subject to regulation by the Washington Utilities and Transportation
18 Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes
19 other wireless radio communications services such as specialized mobile radio (SMR), personal
20 communications services (PCS), and any other evolving wireless radio communications
21 technology which accomplishes the same purpose as cellular mobile service.

22
23 3. **"City"** means the City of Seattle.

24 4. **"Commercial or industrial use"** means the following uses of products, including
25 by-products, by the extractor or manufacturer thereof:
26
27
28



1 a. Any use as a consumer;

2 b. Any use in the manufacturing of products including articles, substances or
3 commodities; or

4 c. Consigning, shipping or transferring extracted or manufactured products to
5 another either without consideration or in the performance of contracts.
6

7 5. **“Competitive telephone service”** means the providing by any person of
8 telecommunications equipment or apparatus, directory advertising and lease of telephone street
9 directories, or service related to that equipment or apparatus such as repair or maintenance
10 service, if the equipment or apparatus is of a type which may be provided by persons not subject
11 to regulation as telephone companies under RCW Title 80, and for which a separate charge is
12 made. Transmission of communication through cellular telephones is classified as "telephone
13 business" rather than “competitive telephone service.”
14

15 6. **“Construction, Demolition and Land Clearing Waste”** (or **“CDL Waste”**) has the
16 meaning given in SMC Section 21.36.012.
17

18 7. **“Consumer”** means the following:

19 a. Any person who purchases, acquires, owns, holds, or uses any tangible or
20 intangible personal property irrespective of the nature of the person's business and including,
21 among others, without limiting the scope hereof, persons who install, repair, clean, alter,
22 improve, construct, or decorate real or personal property of or for a consumer other than for the
23 purpose of:
24

25 i. resale as tangible or intangible personal property in the regular course of
26 business;
27
28



1 ii. incorporating such property as an ingredient or component of real or
2 personal property when installing, repairing, cleaning, altering, imprinting, improving,
3 constructing, or decorating such real or personal property of or for consumers;

4 iii. incorporating such property as an ingredient or component of a new
5 product or as a chemical used in processing a new product when the primary purpose of such
6 chemical is to create a chemical reaction directly through contact with an ingredient of a new
7 product; or
8

9 iv. consuming the property in producing ferrosilicon which is
10 subsequently used in producing magnesium for sale, if the primary purpose of such property is to
11 create a chemical reaction directly through contact with an ingredient of ferrosilicon;
12

13 b. Any person engaged in any business activity taxable under SMC Section
14 5.45.050 F;

15 c. Any person who purchases, acquires, or uses any competitive telephone service
16 as herein defined, other than for resale in the regular course of business;
17

18 d. Any person who purchases, acquires, or uses any personal, business, or
19 professional service defined as a retail sale in SMC Section 5.30.050 other than for resale in the
20 regular course of business;

21 e. Any person who is an end user of software;

22 f. Any person engaged in the business of "public road construction," as that term
23 is defined in SMC Section 5.30.040, in respect to tangible personal property when that person
24 incorporates the tangible personal property as an ingredient or component of a publicly-owned
25 street, place, road, highway, easement, right-of-way, mass public transportation terminal or
26
27
28



1 parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or
2 upon the right-of-way of a publicly-owned street, place, road, highway, easement, bridge, tunnel,
3 or trestle or in or upon the site of a publicly-owned mass public transportation terminal or
4 parking facility;

5 g. Any person who is an owner, lessee or has the right of possession to or an
6 easement in real property which is being constructed, repaired, decorated, improved, or otherwise
7 altered by a person engaged in business;

8 h. Any person who is an owner, lessee, or has the right of possession, of personal
9 property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered
10 by a person engaged in business;

11 i. Any person engaged in "government contracting," as that term is defined in
12 SMC Section 5.30.035. Any such person shall be a consumer within the meaning of this
13 subsection in respect to tangible personal property incorporated into, installed in, or attached to
14 such building or other structure by such person;

15 j. Any person who is a lessor of machinery and equipment, the rental of which is
16 exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the
17 sale of or charge made for tangible personal property consumed in respect to repairing the
18 machinery and equipment, if the tangible personal property has a useful life of less than one (1)
19 year.

20 Nothing contained in this or any other subsection of this section shall be construed to modify any
21 other definition of "consumer."
22
23
24
25
26
27
28



1 8. **“Customer-owner,”** with respect to a distribution cooperative, means a person a)
2 having an ownership interest in the distribution cooperative, b) who purchases merchandise for
3 sale at retail from the distribution cooperative or its distribution affiliate, and c) who is entitled to
4 distributions made by the distribution cooperative.

5 9. **“Deficiency”** means the amount of tax imposed by law less any tax reported by the
6 taxpayer on a tax return.

7 10. **“Director”** means the Director of Finance of the City or any officer, agent or
8 employee of the City designated to act on the Director’s behalf.

9 11. **“Distribution affiliate”** means a partnership, limited liability company, or other
10 entity that sells merchandise to the customer-owners of the distribution cooperative and which is
11 owned 50 percent or more by the distribution cooperative.

12 12. **“Distribution cooperative”** means a person a) that itself sells, or owns fifty (50)
13 percent or more of a distribution affiliate that sells, merchandise to its customer-owners for resale
14 at retail, b) in which two-thirds of the aggregate outstanding voting ownership interest is owned
15 by its customer-owners, c) that makes distributions to its customer-owners at least partly on the
16 basis of patronage, and d) that qualifies for federal income tax purposes under the provisions of
17 subchapter T of the Internal Revenue Code of 1986, as amended.

18 **5.30.030 Definitions, E-F.**

19 1. **“Eligible gross receipts tax”** means a tax which:

20 a. Is imposed on the act or privilege of engaging in business activities within SMC
21 Section 5.45.050;

1 b. Is measured by the gross volume of business in terms of gross receipts, and is not
2 an income tax or value added tax;

3 c. Is not, pursuant to law or custom, separately stated from the sales price;

4 d. Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax
5 measured by volume or weight, or concession charge, or payment for the use and enjoyment
6 of property, property right or a privilege; and
7

8 e. Is a tax imposed by a local jurisdiction, and not by a Country, State, Province, or
9 any other non-local jurisdiction above the county level.

10 2. **“Engaging in business” – “nexus.”**

11 a. The term **“engaging in business activity”** means commencing, conducting, or
12 continuing in the City any activity with the object of gain, benefit, or advantage to the person,
13 either directly or indirectly. It includes the exercise of corporate or franchise powers, design,
14 research, and development activities, and liquidating a business when the liquidators thereof hold
15 themselves out to the public as conducting such business.
16

17 b. This subsection sets forth examples of activities that constitute engaging in
18 business, and establishes safe harbors for certain of those activities so that a person who meets
19 the criteria may engage in de minimus business activities in the City without having to register
20 and obtain a business license or pay City business and occupation taxes. The activities listed in
21 this section are illustrative only and are not intended to narrow the definition of “engaging in
22 business” in subsection (a), above. If an activity is not listed, whether it constitutes engaging in
23 business in the City is to be determined by considering all the facts and circumstances. Without
24 being all inclusive, any one of the following activities, whether performed itself or by it
25
26
27
28



1 employees, agents, representatives, independent contractors, brokers or others acting on its behalf

2 constitutes engaging in business and requires a person to register and obtain a business license:

3 i. Owning, renting, leasing, maintaining, or having the right to use, or
4 using, tangible personal or real property permanently or temporarily located in the City;

5 ii. Owning, renting, leasing, using, or maintaining, an office, place of
6 business, or other establishment in the City;

7 iii. The following activities if performed in the City on two (2) or more
8 days within a twelve (12) month calendar year:

9 (a) Soliciting sales;

10 (b) Making repairs or providing maintenance or service to real or
11 tangible personal property, including warranty work and property maintenance;

12 (c) Providing technical assistance or service, including quality
13 control, product inspections, warranty work, or similar services on or in connection with tangible
14 personal property sold by the person or on its behalf;

15 (d) Installing, constructing, or supervising installation or
16 construction of, real or tangible personal property;

17 (e) Soliciting, negotiating, or approving franchise, license, or other
18 similar agreements;

19 (f) Collecting current or delinquent accounts;

20 (g) Picking up and transporting tangible personal property,
21 construction debris, or excavated materials;



1 (h) Providing disinfecting and pest control services, employment
2 and labor pool services, home nursing care, janitorial services, appraising, landscape architectural
3 services, security system services, surveying, and real estate services including the listing of
4 homes and managing real property;

5 (i) Rendering professional services such as those provided by
6 accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes,
7 barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court
8 reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians; or
9

10 (j) Meeting with customers or potential customers, even when no
11 sales or orders are solicited at the meetings.
12

13 iv. The following activities if performed in the City on ten (10) or more
14 days within a twelve (12) month calendar year:

15 (a) Conducting training or other educational services for
16 employees, agents, representatives, independent contractors, brokers or others, domiciled or
17 operating on a job in the City, acting on its behalf, or for customers or potential customers;
18

19 (b) Investigating, resolving, or otherwise assisting in resolving
20 customer complaints;

21 (c) In-store stocking or manipulating products or goods, sold to
22 and owned by a customer, regardless of where sale and delivery of the goods took place;
23

24 (d) Delivering goods in vehicles owned, rented, leased, used, or
25 maintained by the person who sold the goods or another acting on its behalf.
26
27
28

1 c. A person performing one or more of the following activities in the City,
2 whether itself or by its employees, agents, representatives, independent contractors, brokers or
3 others acting on its behalf, is not required to register and obtain a business license **provided that**
4 **it engages in no other business activities in or with the City:**

- 5 i. Meeting with suppliers of goods and services as a customer;
6
7 ii. Meeting with government representatives in their official capacity,
8 other than those performing contracting or purchasing functions;
9
10 iii. Attending meetings, such as board meetings, retreats, seminars, and
11 conferences, or other meetings wherein the person does not provide training in connection with
12 tangible personal property sold by the person or on its behalf;
13
14 iv. Renting tangible or intangible property as a customer when the
15 property is not used in the City; or
16
17 v. Attending, but not participating in, a "trade show." Persons
18 participating at a trade show shall review the City's trade show ordinance, SMC Chapter 6.20.

19 d. A seller located outside the City merely delivering goods into the City by
20 means of common carrier is not required to register and obtain a business license provided that it
21 engages in no other business activities in the City.

22 e. A person that maintains an office or place of business within another local
23 jurisdiction that imposes an eligible gross receipts tax is not required to register and obtain a
24 business license provided that it:

- 25 i. does not maintain an office or place of business within the City;
26
27
28

1 ii. only engages in business activities within the City that would, except
2 for this exemption, be taxable under the "other business activity"
3 classification (SMC 5.45.050(F)); and

4 iii. the gross income of the business from business activity within the City
5 is less than Twelve Thousand Dollars (\$12,000) per year.

6
7 f. "Nexus." A person has created nexus with the City if, whether itself or by its
8 employees, agents, representatives, independent contractors, brokers or others acting on its
9 behalf, it:

- 10 i. is physically present in the City; or
11 ii. endeavors to maintain a share of the market within the City; or,
12 iii. avails itself of the economic benefits of the City.
13

14 The City expressly intends that nexus extend to the limits otherwise allowed by
15 law and the constitutions of the United States and the State of Washington. Nexus is
16 presumed to continue as long as the taxpayer maintains sales or services that resulted
17 from the original nexus generating contact.
18

19 3. "Extractor" means every person who from the person's own land or from the land of
20 another under a right or license granted by lease or contract, either directly or by contracting with
21 others for the necessary labor or mechanical services, for sale or for commercial or industrial use,
22 mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or
23 other natural resource product; or fells, cuts or takes timber, Christmas trees, other than
24 plantation Christmas trees, or other natural products; or takes fish, or takes, cultivates, or raises
25 shellfish, or other sea or inland water foods or products. "Extractor" does not include persons
26
27
28

1 performing under contract the necessary labor or mechanical services for others; persons
2 cultivating or raising fish entirely within confined rearing areas on the person's own land or on
3 land in which the person has a present right of possession; or persons who fell, cut, or take
4 plantation Christmas trees from the person's own land or from land in which the person has a
5 present right of possession.

6
7 **5.30.035 Definitions, G-M.**

8 1. **"Garbage"** has the meaning given in SMC Section 21.36.014.

9 2. **"Government contracting"** means the constructing, repairing, decorating, or
10 improving of new or existing buildings or other structures under, upon or above real property of
11 or for the United States, any instrumentality thereof, or a county or city housing authority created
12 pursuant to RCW Chapter 35.82, including the installing or attaching of any article of tangible
13 personal property therein or thereto, whether or not such personal property becomes a part of the
14 realty by virtue of installation. The term shall include the clearing of land and the moving of
15 earth of or for the United States, any instrumentality, thereof, or a county or city housing
16 authority.
17

18
19 3. **"Gross gambling receipts"** means the monetary value that would be due to any
20 operator of a gambling activity for any chance taken, other participation fees, any rental or lease
21 fees for amusement games received by a commercial amusement game operation, as evidenced
22 by required records. The value shall be stated in U.S. currency, before any deductions for prizes
23 or any other expenses. In the absence of records, gross gambling receipts shall be the maximum
24 that would be due to an operator from that particular activity if operated at maximum capacity.
25
26
27
28



1 4. **"Gross income of the business"** means the value proceeding or accruing by reason of
2 the business activity engaged in and includes gross proceeds of sales, compensation for the
3 rendition of services, gains realized from trading in stocks, bonds, or other evidences of
4 indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other
5 emoluments however designated, all without any deduction on account of the cost of tangible
6 property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or
7 any other expense whatsoever paid or accrued and without any deduction on account of losses.

8
9 5. **"Gross proceeds of sales"** means the value proceeding or accruing from the sale of
10 tangible or intangible personal property or for services rendered, without any deduction on
11 account of the cost of property sold, the cost of materials used, labor costs, interest, discount
12 paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any
13 deduction on account of losses.

14
15 6. **"In this City," "within this City."** "In this City" or "within this City" includes all
16 federal areas lying within the corporate city limits of the City.

17
18 7. **"Janitorial Services."** The term "janitorial services" shall mean those cleaning and
19 care taking services ordinarily performed by commercial janitor service businesses including, but
20 not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of
21 rugs, drapes and upholstery. The term does not include painting, papering, repairing, furnace or
22 septic tank cleaning, snow removal, sandblasting, or cleanup related to construction activities.

23
24 8. **"Manufacturer," "to manufacture."**

25 a. "Manufacturer" means every person who, either directly or by contracting with
26 others for the necessary labor or mechanical services, manufactures for sale or for
27

1 commercial or industrial use from his or her own materials or ingredients any
2 products. When the owner of equipment or facilities furnishes, or sells to the
3 customer prior to manufacture, all or a portion of the materials that become a part
4 or whole of the manufactured product, the Director shall prescribe equitable rules
5 for determining tax liability. A business not located in this City that is the owner
6 of materials or ingredients processed for it in this City by a processor for hire shall
7 be deemed to be engaged in business as a manufacturer in this City.
8

9 b. "To manufacture" embraces all activities of a commercial or industrial nature
10 wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a
11 result thereof a new, different or useful product of tangible personal property is produced for sale
12 or commercial or industrial use, and shall include:
13

14 i. the production of special-made articles or custom-made articles;

15 ii. the development, production, or duplication of canned software
16 programs including the development, production, or duplication of master copies;

17 iii. the production of dental appliances, devices, restorations, substitutes,
18 or other dental laboratory products by a dental laboratory or dental technician;

19 iv. crushing and/or blending of rock, sand, stone, gravel, or ore;

20 v. the development, production, or reproduction of biotech products; and

21 vi. the producing of articles for sale, or for commercial or industrial use
22 from raw materials or prepared materials by giving such materials, articles, and
23 substances of trade or commerce new forms, qualities, properties or combinations
24 including, but not limited to, such activities as making, fabricating, processing,
25
26
27
28

refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving,
canning, and the preparing and freezing of fresh fruits and vegetables.

5.30.040 Definitions, N-R.

1. "Newspaper," "magazine," "periodical."

a. "Newspaper" means a publication offered for sale regularly at stated intervals at least once a week and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind.

b. "Magazine or periodical" means any printed publication, other than a newspaper, issued and offered for sale regularly at stated intervals at least once every three (3) months, including any supplement or special edition of the publication. Any publication meeting this definition qualifies regardless of its content.

2. "Net gambling receipts" means all gross gambling receipts from any gambling activity, less the monetary value or, in the case of merchandise, the actual cost, of any prizes that were awarded.

3. "Non-profit organization" means an organization in which no part of the income can be distributed to its members, directors, or officers and that holds a current tax exempt status as provided under Sec. 501(c)(3) of the Internal Revenue Code of 1986, as amended, or is specifically exempted from the requirement to apply for tax exempt status under Sec. 501(c)(3).

4. "Office," "place of business." "Office" or "place of business" means a fixed location or permanent facility where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control. The regular business of the person is presumed conducted at a location:



1 a. Whose address the person uses as its business mailing address;

2 b. Containing a telephone line listed in a public telephone directory or other
3 similar publication under the business name;

4 c. Where the person holds itself out to the general public as conducting its regular
5 business through signage or other means; and

6 d. Where the person is required to obtain any appropriate state and local business
7 license or registration unless exempted by law from such requirement.
8

9 A vehicle such as a pick-up, van, truck, boat or other motor vehicle is not an office or
10 place of business. A post office box is not an office or place of business.
11

12 If a person has an office or place of business, the person's home is not an office or place
13 of business unless it meets the criteria for office or place of business above. If a person has no
14 office or place of business, the person's home or apartment within the City will be deemed the
15 place of business.
16

17 5. **"Pager Service"** means service provided by means of an electronic device that has the
18 ability to send or receive voice or digital messages transmitted through the local telephone
19 network, via satellite or any other form of voice or data transmission.

20 6. **"Person"** means any individual, receiver, administrator, executor, assignee, trustee in
21 bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company,
22 business trust, municipal corporation, political subdivision of the State of Washington,
23 corporation, limited liability company, association, society, or any group of individuals acting as
24 a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or
25 any instrumentality thereof.
26
27
28

1 7. **"Precious metal bullion or monetized bullion."**

2 a. "Precious metal bullion" means any precious metal which has been put through
3 a process of smelting or refining, including, but not limited to, gold, silver, platinum,
4 rhodium, and palladium, and which is in such state or condition that its value depends
5 upon its contents and not upon its form.

6 b. For purposes of this section, "monetized bullion" means coins or other forms
7 of money manufactured from gold, silver, or other metals and heretofore, now, or
8 hereafter used as a medium of exchange under the laws of this state, the United States, or
9 any foreign nation, but does not include coins or money sold to be manufactured into
10 jewelry or works of art.

11 8. **"Processing for hire"** means the performance of labor and mechanical services upon
12 materials or ingredients belonging to others so that as a result a new, different or useful product
13 is produced for sale, or commercial or industrial use. A processor for hire is any person who
14 would be a manufacturer if that person were performing the labor and mechanical services upon
15 that person's own materials or ingredients. If a person's own materials or ingredients equal
16 twenty (20) percent or more of the total value of all materials or ingredients that become a part of
17 the finished product, the person will be deemed to be a manufacturer and not a processor for hire.

18 9. **"Product," "byproduct."**

19 a. "Product" means tangible personal property, including articles, substances, or
20 commodities created, brought forth, extracted, or manufactured by human or mechanical
21 effort.

1 b. "Byproduct" means any additional product, other than the principal or intended
2 product, which results from extracting or manufacturing activities and which has a market
3 value, without regard to whether or not such additional product was an expected or
4 intended result of the extracting or manufacturing activities.

5 10. "**Public road construction**" means the building, repairing, or improving of any
6 street, place, road, highway, easement, right-of-way, mass public transportation terminal or
7 parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political
8 subdivision of the state or by the United States and which is used or to be used primarily for foot
9 or vehicular traffic including mass transportation vehicles of any kind.

10 11. "**Recovered material**" means a usable or marketable product or commodity that
11 results from recycling or material owned or acquired from another, but excludes use for landfill
12 or incineration.

13 12. "**Recyclable**" means material:

14 a. That is collected for recycling or reuse, such as papers, glass, plastics, used
15 wood, sand, building debris, metals, yardwaste, used oil and tires; and

16 b. That if not collected for recycling would otherwise be destined for disposal at a
17 landfill or incineration.

18 13. "**Recycled material**" means material:

19 a. That is in fact recycled, re-used, or reprocessed after collection; and

20 b. If not recycled, re-used or reprocessed, would have been destined for disposal
21 at a landfill or incineration.

22 14. "**Recycling.**" "Recycling" has the meaning given in SMC Section 21.36.016.



1 purchase price. It also includes the furnishing of food, drink, or meals for compensation
2 whether consumed upon the premises or not.

3 b. "Casual or isolated sale" means a sale made by a person who is not engaged in
4 the business of selling the type of property involved on a routine or continuous basis.

5
6 **2. "Sale at retail," "retail sale,"**

7 a. "Sale at retail" or "retail sale" means every sale of tangible personal property
8 (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of
9 their business.

10 b. "Sale at retail" or "retail sale" includes the following:

11 i. The sale of tangible personal property used or consumed or to be
12 used or consumed in the performance of any activity classified as a
13 "sale at retail" or "retail sale" even though such property is resold
14 or utilized as provided in (a), (b), (c), (d), or (e) of subsection c i of
15 this definition following such use.

16
17
18 ii. The sale of tangible personal property to persons engaged in any
19 business taxable under SMC 5.45.050 F.

20 iii. The sale of or charge made for tangible personal property consumed
21 and/or labor and services rendered in respect to the following:

22 (a) The installing, repairing, cleaning, altering, imprinting, or
23 improving of tangible personal property of or for consumers, including charges made for the
24 mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated
25 laundry facilities when such facilities are situated in an apartment house, rooming house, or
26
27
28



1 mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry
2 service to non-profit health care facilities, and excluding services rendered in respect to live
3 animals, birds and insects;

4 (b) The constructing, repairing, decorating, or improving of new or
5 existing buildings or other structures under, upon, or above real property of or for consumers,
6 including the installing or attaching of any article of tangible personal property therein or thereto,
7 whether or not such personal property becomes a part of the realty by virtue of installation;

8 (c) The constructing, repairing, or improving any structure upon,
9 above, or under any real property owned by an owner who conveys the property by title,
10 possession, or any other means to the person performing such construction, repair, or
11 improvement for the purpose of performing such construction, repair, or improvement and the
12 property is then re-conveyed by title, possession, or any other means to the original owner;

13 (d) The clearing of land and the moving of earth excepting the
14 mere leveling of land used in commercial farming or agriculture, and shall include the cleaning,
15 fumigating, razing or moving of existing buildings or structures, but shall not include the charge
16 made for "janitorial services;"

17 (e) The towing of automobiles or other vehicles;

18 (f) The furnishing of lodging and all other services, except the
19 provision of network telephone services, by a hotel, rooming house, tourist court, motel, trailer
20 camp, and the granting of any similar license to use real property, as distinguished from the
21 renting or leasing of real property, and it shall be presumed that the occupancy of real property
22
23
24
25
26
27
28



1 for a continuous period of one month or more constitutes a rental or lease of real property and not
2 a mere license to use or enjoy the same;

3 iv. The sale of or charge made for tangible personal property, labor and
4 services to persons taxable under (a), (b), (c), (d), (e) and (f) of subsection b iii when such sales
5 or charges are for property, labor and services which are used or consumed in whole or in part by
6 such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even
7 though such property, labor and services may be resold after such use or consumption.
8

9 v. The sale of or charge made for personal, business, or professional
10 services including amounts designated as interest, rents, fees, admission, service charges, and
11 other service emoluments however designated, received by persons engaging in the following
12 business activities:
13

14 (a) Amusement and recreation services including but not limited
15 to golf, pool, billiards, skating, bowling, ski lifts and tows, day tours, and others, when provided
16 to consumers;

17 (b) Abstract, title insurance, and escrow services;

18 (c) Credit bureau services;

19 (d) Automobile parking and storage garage services;

20 (e) Landscape maintenance and horticultural services but
21

22 excluding:
23

24 (i) horticultural services provided to farmers and
25
26
27
28

1 (ii) pruning, trimming, repairing, removing, and clearing of
2 trees and brush near electric transmission or distribution lines or equipment, if performed by or at
3 the direction of an electric utility;

4 (f) Service charges associated with selling tickets to professional
5 sporting events; or
6

7 (g) The following personal services: physical fitness services,
8 tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort
9 services, and dating services.

10 vi. The renting or leasing of tangible personal property to consumers and
11 the rental of equipment with an operator.

12 vii. The providing of competitive telephone service to consumers, as
13 defined in RCW 82.04.065.

14 viii. The sale, licensing, rental, or any other charge made for the transfer
15 or use of canned software regardless of the method of delivery to the end user, including the right
16 to reproduce and use the software under original equipment manufacturer's ("OEM") licenses,
17 but not the sale of custom software, customization of canned software, or the sale of other
18 retained rights in software.
19

20
21 ix. The sale of or charge made for "Public road construction," as defined
22 in SMC Section 5.30.040.

23
24 x. The sale of or charge made for "Government contracting," as defined in
25 SMC Section 5.30.035, and any sales to any government entity.
26
27
28

1 c. Notwithstanding subsections 5.30.050 (2)(a) and (b), above, "sale at retail" or

2 "retail sale" does not include:

3 i. A sale to a person who presents a resale certificate under RCW

4 82.04.470 and who:

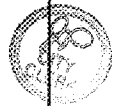
5 (a) Purchases tangible personal property in the regular course of
6 business for the purpose of resale without intervening use by such person;

7 (b) Installs, repairs, cleans, alters, imprints, improves, constructs,
8 or decorates real or personal property of or for consumers, if such tangible personal property
9 becomes an ingredient or component of such real or personal property without intervening use by
10 such person;
11

12 (c) Purchases for the purpose of consuming the property purchased
13 in producing for sale a new article of tangible personal property or substance, of which such
14 property becomes an ingredient or component or is a chemical used in processing, when the
15 primary purpose of such chemical is to create a chemical reaction directly through contact with
16 an ingredient of a new article being produced for sale;
17

18 (d) Purchases for the purpose of consuming the property
19 purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale,
20 if the primary purpose of such property is to create a chemical reaction directly through contact
21 with an ingredient of ferrosilicon; or
22

23 (e) Purchases for the purpose of providing the property to
24 consumers as part of competitive telephone service.
25
26
27
28



1 The activities contained in SMC subsection 5.30.050 (2)(c)(i) shall be taxed under the
2 wholesaling classification (SMC 5.45.050 (C)).

3 ii. The sale of services or charges made for cleaning up for the United
4 States, or its instrumentalities, radioactive waste and other by-products of weapons production
5 and nuclear research and development. Nor shall the term include the sale of or charge made for
6 labor and services rendered for environmental remedial action as defined in RCW 82.04.2635(2).
7 These activities shall be taxed under the "other business activity" classification (SMC 5.45.050
8 (F)).
9

10 **3. "Sale at wholesale," "wholesale sale."**

11 "Sale at wholesale" or "wholesale sale" means any "retail sale," as defined herein, to a
12 person, other than a consumer, for the purpose of resale. Sale at wholesale also includes the sale
13 of network telephone service to a telecommunications company as defined in RCW 80.04.010 for
14 the purpose of resale, as contemplated by RCW 35.21.715.
15

16 Notwithstanding the above, "sale at wholesale" or "wholesale sale" shall specifically not
17 include a distribution cooperative's or its distribution affiliate's sales of merchandise to a
18 customer-owner of the distribution cooperative for the customer-owner's resale at retail. A
19 distribution cooperative or a distribution affiliate is taxed on such sales pursuant to Section
20 5.45.050(F) of the Seattle Municipal Code
21

22 **4. "Software," "canned software," "custom software," "customization of canned
23 software," "master copies," "retained rights."**
24

25 a. "Canned software" means software that is created for more than one (1) person.
26 For purposes of this chapter, canned software is deemed to be tangible personal property
27

1 regardless of the method of delivery—tangible media (i.e. disk or installed on hardware) or
2 intangible (i.e. electronically over telecommunications paths).

3 b. "Custom software" means software created for a single person.

4 c. "Customization of canned software" means any alteration, modification, or
5 development of applications using or incorporating canned software to specific individualized
6 requirements of a single person. Customization of canned software includes individualized
7 configuration of software to work with other software and computer hardware but does not
8 include routine installation. Customization of canned software does not change the underlying
9 character or taxability of the original canned software.
10

11 d. "Master copies" of software means copies of software from which a software
12 developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale
13 or license. The software encoded on a master copy and the media upon which the software
14 resides are both ingredients of the master copy.
15

16 e. "Retained rights" means any and all rights, including intellectual property
17 rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned
18 or are held under contract or license by a software developer, author, inventor, publisher,
19 licensor, sublicensor, or distributor.
20

21 f. "Software" means any information, program, or routine, or any set of one (1) or
22 more programs, routines, or collections of information used, or intended for use, to convey
23 information that causes one or more computers or pieces of computer-related peripheral
24 equipment, or any combination thereof, to perform a task or set of tasks. "Software" includes the
25 associated documentation, materials, or ingredients regardless of the media upon which that
26
27
28

1 documentation is provided, that describes the code and its use, operation, and maintenance and
2 that typically is delivered with the code to the consumer. All software is classified as either
3 canned or custom.

4 5. **"Solid waste"** has the meaning given in SMC Section 21.36.016.

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

11
12
13 **5.30.060 Definitions, T-Z.**

14 1. **"Tax year," "taxable year."** "Tax year" or "taxable year" means the calendar year.

15 2. **"Taxpayer"** means any "person," as herein defined, required by SMC Chapter 5.55 to
16 have a business license, or liable for any license, tax, or fee, or for the collection of any tax or
17 fee, under SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business
18 and Occupation Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), or who engages in any
19 business or who performs any act for which a tax or fee is imposed under those chapters.

20 3. **"Telephone business"** means the providing by any person of access to a local
21 telephone network, local telephone network switching service, toll service, cellular or mobile
22 telephone service, coin telephone services, pager service, or the providing of telephonic, video,
23 data, or similar communication, or transmission for hire, via a local telephone network, toll line
24 or channel, cable, microwave, or similar communication or transmission system. The term
25
26
27



1 includes cooperative or farmer line telephone companies or associations operating exchanges.

2 The term also includes the provision of transmission to and from the site of an internet provider
3 via a local telephone network, toll line or channel, cable, microwave, or similar communication
4 or transmission system. "Telephone business" does not include the providing of competitive
5 telephone service, or providing of cable television service, or other providing of broadcast
6 services by radio or television stations.
7

8 4. **"Tour operator business"** means a business activity of purchasing various travel
9 components, such as transportation, lodging, meals and other associated services and reselling
10 the same to consumers where the purchaser/reseller is liable itself to pay the vendor of the
11 components purchased and does not make payment solely as an agent for the consumer.
12

13 5. **"Tuition fee"** includes library, laboratory, health service and other special fees, and
14 amounts charged for room and board by an educational institution when the property or service
15 for which such charges are made is furnished exclusively to the students or faculty of such
16 institution. "Educational institution," as used in this section, means only those institutions
17 created or generally accredited as such by the state and includes educational programs that such
18 educational institution cosponsors with a non-profit organization, as defined by Section 501(c)(3)
19 of the Internal Revenue Code of 1986, as amended, if such educational institution grants college
20 credit for coursework successfully completed through the educational program, or an approved
21 branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW,
22 and in accordance with RCW 82.04.4332 or defined as a degree-granting institution under RCW
23 28B.85.010(3) and accredited by an accrediting association recognized by the United States
24 secretary of education, and offering to students an educational program of a general academic
25
26
27
28

1 nature or those institutions which are not operated for profit and which are privately endowed
2 under a deed of trust to offer instruction in trade, industry, and agriculture, but not including
3 specialty schools, business colleges, other trade schools, or similar institutions.

4 **6. "Value proceeding or accruing"** means the consideration, whether money, credits,
5 rights, or other property expressed in terms of money, actually received or accrued. The term
6 shall be applied, in each case, on a cash receipts or accrual basis according to which method of
7 accounting is regularly employed in keeping the books of the taxpayer. The Director may
8 provide by regulation that the value proceeding or accruing from sales on the installment plan
9 under conditional contracts of sale may be reported as of the dates when the payments become
10 due.
11

12
13 **7. "Value of products, how determined."**

14 a. The value of products, including by-products, extracted or manufactured, shall be
15 determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale
16 or at retail, to which shall be added all subsidies and bonuses received from the purchaser or
17 from any other person with respect to the extraction, manufacture, or sale of such products or
18 by-products by the seller.
19

20 b. Where such products, including by-products, are extracted or manufactured for
21 commercial or industrial use; and where such products, including by-products, are shipped,
22 transported or transferred out of the City, or to another person, without prior sale or are sold
23 under circumstances such that the gross proceeds from the sale are not indicative of the true
24 value of the subject matter of the sale, the value shall correspond as nearly as possible to the
25 gross proceeds from sales in this state of similar products of like quality and character, and in
26
27
28

1 similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable
2 by the purchaser or by any third person with respect to the extraction, manufacture, or sale of
3 such products. In the absence of sales of similar products as a guide to value, such value may be
4 determined upon a cost basis. In such cases, there shall be included every item of cost
5 attributable to the particular article or article extracted or manufactured, including direct and
6 indirect overhead costs. The Director may prescribe uniform and equitable rules for the purpose
7 of ascertaining such values.
8

9 8. "Yardwaste" has the meaning given in SMC Section 21.36.016.

10 **5.30.070 Severability.**

11 If any part, provision or section of this chapter is held to be void or unconstitutional, all other
12 parts, provisions, and sections of this chapter not expressly so held to be void or unconstitutional
13 shall continue in full force and effect.
14

15 **SECTION 4.** Effective January 1, 2002, a new Chapter 5.55 is added to Title 5 of the Seattle
16 Municipal Code as follows:

17 **5.55.010 Application of chapter stated.**

18 Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall
19 apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32
20 (Amusement Devices), 5.40 (Admission Taxes), 5.45 (Business and Occupation Tax), 5.48
21 (Utility Tax), and 5.52 (Gambling Tax) and under other titles, chapters, and sections in such
22 manner and to such extent as indicated in each such title, chapter or section.
23
24

25 **5.55.020 Definitions.**

1 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
2 applicable to this chapter except as expressly stated to the contrary herein.

3 **5.55.030 License requirements.**

4 A. No person, unless specifically exempted, shall engage in any business activity,
5 profession, trade, or occupation in the City without having first obtained and being the holder of
6 a valid and subsisting license to do so, to be known as a "business license." The fee for the
7 business license shall be Seventy-five Dollars (\$75.00) for persons engaging in any business
8 activity, profession, trade, or occupation in the City prior to July 1st, and Thirty-seven Dollars and
9 Fifty Cents (\$37.50) for persons beginning their activity on or after July 1st. The fee shall
10 accompany the application for the license. The business license shall expire at the end of the
11 calendar year for which it is issued.
12
13

14 The business license shall be personal and nontransferable except as provided in
15 subsection (G), below. Applications for the business license shall be made to the Director of
16 Finance on forms provided by the Director. Each business license shall be numbered, shall show
17 the name, place and character of the business of the licensee, and such other information as the
18 Director deems necessary, and shall at all times be conspicuously posted in the place of business
19 for which it is issued.
20

21 If the licensee changes the place of business, the licensee shall return the business license
22 to the Director and a new license shall be issued for the new place of business free of charge.
23

24 B. When business is transacted at two (2) or more separate places by one (1) taxpayer, a
25 separate business license for each place at which business is transacted with the public shall be
26
27
28



1 required. A Ten Dollar (\$10.00) license fee shall be imposed and accompany each application
2 for the business license required for each additional business location.

3 C. No person to whom a business license has been issued pursuant to this chapter shall
4 suffer or allow any other person for whom a separate license is required to operate under or
5 display his or her license; nor shall such other person operate under or display such license.
6

7 D. As provided in SMC Section 6.20.040, a participant at an event, identified in the list
8 supplied by the promoter or organizer, shall be exempt from the minimum fee established by
9 subsection (A), above, or the fee for a separate business location established by subsection (B),
10 above, on account of business activities at the licensed event for the duration of the license.
11

12 E. Any business license may be renewed by the payment for the ensuing year of the
13 license fee herein prescribed on or before the date of the expiration of such license.
14 Any licensee who fails to make payment on or prior to the expiration date of said
15 business license shall be subject to penalties in the following amounts:

- 16 1. Five Dollars (\$5.00) if not received on or before the due date;
- 17 2. Ten Dollars (\$10.00) if not received on or before the last day of the month
18 following the due date.
- 19 3. Twenty Dollars (\$20.00) if not received on or before the last day of the
20 second month following the due date.
- 21 4. All business licenses issued subsequent to the initial license period shall be
22 deemed renewal licenses if there has been no discontinuance of the licensee's
23 operations or activities. Nonpayment of business license fees and taxes when
24
25
26
27
28



1 due by the licensee during the term of any license shall constitute grounds for
2 revocation or suspension of said license.

3 F. Licenses for amusement devices will be in addition to this business license and will be
4 assessed pursuant to SMC Section 5.32.170. It is unlawful for any person to own any amusement
5 device, which is available for use by the public, without having first obtained an amusement
6 device license issued in accordance with the provisions of this chapter and SMC Chapter 5.32.
7 The license shall be attached to the amusement device at all times when in use or play or
8 available for use or play so that it is readily visible. The amusement device license will be
9 prorated semi-annually in the same manner as the business license, however the amusement
10 device license expires annually on November 30th.
11
12

13 G. A business license or amusement device license cannot be assigned or transferred,
14 except that a license may be transferred:

- 15 1. To the surviving or new corporation, whenever the licensed corporation is
16 merged or consolidated pursuant to RCW Chapter 23B.11, as now or hereafter amended;
- 17 2. To the surviving partner, or to a new partnership which consists exclusively of
18 the surviving partners, whenever one (1) partner of a licensed partnership dies;
- 19 3. To the surviving spouse, whenever one (1) spouse of a licensed marital
20 community dies;
- 21 4. To any one (1) or more former partners, whenever a licensed partnership is
22 dissolved and one (1) or more of the former partners of the licensed partnership continue the
23 operation of the business as an individual proprietorship or partnership without the addition of
24
25
26
27
28



1 any new partner, and all of the other former partners consent in writing to the transfer of the
2 license, which written consent shall be filed with the application for such transfer;

3 5. To one (1) spouse, whenever a licensed marital community is dissolved and the
4 other spouse consents in writing to the transfer of the license, which written consent shall be filed
5 with the application for such transfer;

6
7 6. In case of the death of any licensee before the expiration of his or her license,
8 his or her administrator or executor, duly appointed as such by order of court, may continue to act
9 under said license for the unexpired term thereof upon filing with the City proof of such
10 appointment.

11 As used in this subsection, SMC 5.55.030(G), the term "partnership" includes joint venture, and
12 the term "partner" includes a co-venturer.

13
14 5.55.040 When due and payable - Reporting periods - Monthly, quarterly, and
15 annual returns - Threshold provisions - Computing time periods - Failure to file returns.

16
17 A. Other than any annual license fee or registration fee assessed under this chapter, the
18 tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.40 (Admission Taxes), 5.45
19 (Business and Occupation Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and
20 payable in quarterly installments. At the Director's discretion, businesses may be assigned to a
21 monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes
22 imposed by SMC Section 5.52.030(A)(2) and (B)(2) for punchboards and pulltabs shall be due
23 and payable in monthly installments. Tax payments are due on or before the last day of the next
24 month following the end of the assigned reporting period covered by the return.
25
26
27
28



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

5 C. Tax returns must be filed and returned by the due date whether or not any tax is owed.
6 Returns not received on or before the due date are subject to penalties and interest in accordance
7 with this chapter.
8

9 D. For purposes of the tax imposed by SMC Chapter 5.45, any person who reasonably
10 estimates that the value of products, gross proceeds of sales, or gross income of the business, as
11 the case may be, subject to tax after all allowable deductions, will be less than Fifty Thousand
12 Dollars (\$50,000) in the current calendar year may file a declaration so stating on a form supplied
13 by the Director at the same time he or she files his or her application for a business license or a
14 renewal. The Director may assign any person who files such declaration to an annual reporting
15 basis. Regardless of reporting period assigned, any person whose value of products, gross
16 proceeds of sales, or gross income of the business, subject to tax after all allowable deductions,
17 does not exceed the threshold amount in the current calendar year, shall file a return, declare no
18 tax due on their return, and submit the return to the Director. The gross receipts and deduction
19 amounts shall be entered on the tax return even though no tax may be due.
20
21

22 E. A taxpayer who commences to engage in business activity shall file a return and pay
23 the tax or fee for the portion of the reporting period during which he or she is engaged in
24 business activity subject to the conditions set forth in subsection D, above.
25
26
27
28



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

6
7 G. If any taxpayer fails, neglects or refuses to make his or her return as and when
8 required in this chapter, the Director is authorized to determine the amount of the tax or fees
9 payable by obtaining facts and information upon which to base his or her estimate of the tax or
10 fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax
11 owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of
12 tax so determined, together with any penalty, interest, and fees due; the total of such amounts
13 shall thereupon become immediately due and payable.

14
15 **5.55.050 Payment methods - Mailing returns or remittances - Time extension -**
16 **Deposits - Recording payments - Payment must accompany return - NSF checks.**

17
18 A. Taxes shall be paid to the Director in United States currency by bank draft, certified
19 check, cashier's check, personal check, money order, cash, or by wire transfer or electronic
20 payment if such wire transfer or electronic payment is authorized by the Director. If payment so
21 received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is
22 tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such
23 payment had not been tendered. Acceptance of any sum by the Director shall not discharge the
24 tax or fee due unless the amount paid is the full amount due.
25
26
27
28



1 B. A return or remittance which is transmitted to the City by United States mail shall be
2 deemed filed or received on the date shown by the cancellation mark stamped by the Post Office
3 upon the envelope containing it. The Director may allow electronic filing of returns or
4 remittances from any taxpayer. A return or remittance that is transmitted to the City
5 electronically shall be deemed filed or received according to procedures set forth by the Director.
6

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

9 D. The Director shall keep full and accurate records of all funds received or refunded.
10 The Director shall apply payments first against all license fees, then penalties, then interest
11 owing, and finally upon the tax, without regard to any direction of the taxpayer.
12

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

16 F. Any payment made that is returned for lack of sufficient funds or for any other reason
17 will not be considered received until payment by certified check, money order, or cash of the
18 original amount due, plus a "non-sufficient funds" (NSF) charge of Twenty Dollars (\$20.00) is
19 received by the Director. Any license issued upon payment with a NSF check will be considered
20 void, and shall be returned to the Director. No license shall be reissued until payment (including
21 the Twenty Dollars (\$20.00) NSF fee) is received.
22

23 G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but
24 failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns
25 and making payment of the taxes or fees, when and as due under this chapter.
26
27
28



5.55.060 Records to be preserved - Examination - Estoppel to question

assessment.

A. Every person liable for any fee or tax imposed by this chapter, SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52 shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All places of business, books, records, papers, invoices, ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent.

B. If a person does not keep the necessary books and records within the City, it shall be sufficient if such person:

1. produces within the City such books and records as may be required by the Director, or
2. bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

C. Any person who fails, or refuses a Department request, to provide or make available records or information contained in subsection A, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the City based upon any



1 period for which such books, records, and invoices have not been so kept and preserved. The
2 Director is authorized to determine the amount of the tax or fees payable by obtaining facts and
3 information upon which to base the estimate of the tax or fees due. Such fee or tax assessment
4 shall be deemed prima facie correct and shall be the amount of tax owing the City by the
5 taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined,
6 together with any penalty, interest, and fees due; the total of such amounts shall thereupon
7 become immediately due and payable.
8

9 **5.55.070 Accounting methods.**

10 A. A taxpayer may file tax returns in each reporting period with amounts based upon
11 cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A
12 taxpayer who does not regularly keep books of account on a cash receipts basis must file returns
13 with amounts based on the accrual method.
14

15 B. The taxes imposed and the returns required, hereunder, shall be upon a calendar year
16 basis.
17

18 **5.55.080 Public work contracts - Payment of fee and tax before final payment
19 for work.**

20 The Director, before issuing any final payment to any person performing any public work
21 contract for the City, may require such person to pay in full all license fees or taxes due under
22 SMC Title 5 from such person on account of such contract or otherwise, and may require such
23 taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or
24 materials to the person in connection with said public work.
25
26
27
28



5.55.090 Underpayment of tax, interest, or penalty - Interest - Limitations.

A. If, upon examination of any returns, or from other information obtained by the Director, it appears that an amount of tax less than that properly due has been paid, the Director shall add interest thereto as provided in subsection B of this section. Interest shall be added to delinquent tax only and shall not be calculated upon penalty or interest.

B. Interest calculations on underpayments:

1. Interest on underpayments of taxes for periods prior to the effective date of this ordinance, shall be computed from the date of underpayment until paid at a rate of ten (10) percent per year on the balance due.

2. Interest on underpayments of taxes for periods beginning on or after the effective date of this ordinance shall be computed from the last day of the month following the end of the reporting period and will continue to accrue until payment is made. In case of a deficiency assessment the interest shall be computed from the first day of the month following each calendar year or portion thereof included in the audit period. The rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two (2) percentage points. The rate shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the year immediately preceding the calendar year as published by the United States Secretary of the Treasury. The rate shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

5.55.095 Time in which assessment may be made.



1 The Director shall not assess, or correct an assessment of, additional taxes or assessable
2 penalties more than four (4) years after the close of the calendar year in which they were due with
3 the following exceptions:

4 1. Against a person who is not currently registered or licensed or has not filed a
5 tax return as required by this chapter, for taxes due within the period commencing ten (10) years
6 prior to the close of the calendar year in which the person was contacted in writing by the
7 Director;

8 2. Against a person that has committed fraud or who misrepresented a material
9 fact, for all taxes due; or

10 3. Against a person that has executed a written waiver of such limitations, for
11 taxes due within the period authorized by the waiver.

12
13
14 The Director shall notify the person by mail of the amount of the deficiency, which shall
15 become due and shall be paid within thirty (30) days from the date of the notice, or within such
16 time as the Director may provide in writing.

17
18 **5.55.100 Overpayment of tax, penalty, or interest – Credit or refund – Interest**
19 **rate - Statute of limitations.**

20 A. If, upon receipt of an application for a refund, or during an audit or examination of the
21 taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or
22 interest paid is in excess of that properly due, the excess amount shall be credited to the
23 taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection (B) of
24 this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four
25
26
27
28

1 (4) years prior to the beginning of the calendar year in which the refund application is made or
2 examination of records is completed.

3 B. The execution of a written waiver, pursuant to SMC 5.55.095, shall extend the time
4 for applying for, or making, a refund or credit of any taxes paid during, or attributable to, the
5 years covered by the waiver if, prior to the expiration of the waiver period, an application for
6 refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is
7 due.
8

9 C. Refunds shall be made by means of vouchers approved by the Director and by the
10 issuance of a City check, warrant, or wire transfer drawn upon and payable from such funds as
11 the City may provide.
12

13 D. Any final judgment for which a recovery is granted by any court of competent
14 jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same
15 manner, as provided in subsection (C) of this section, upon the filing with the Director a certified
16 copy of the order or judgment of the court.
17

18 E. Interest calculation on refunds or overpayments.

19 1. No interest shall be allowed on any refund or credit granted for tax periods
20 ending prior to September 5, 1999.

21 2. Interest on overpayments of taxes for periods beginning on or after September
22 5, 1999 and ending prior to January 1, 2002 shall be computed at five (5) percent per annum.
23

24 3. Interest on overpayments of taxes for periods beginning on or after January 1,
25 2002, shall be the federal short term interest rate for underpayments under SMC 5.55.090 (B)
26 less two (2) percentage points.
27
28

1
2 **5.55.110 Late payment - Disregard of written instructions - Evasion - Penalties.**

3 A. If the Director does not receive payment of any tax shown as due on a return filed by a
4 taxpayer, the Director shall add a penalty equal to the greater of five (5) percent of the amount of
5 the tax, or Ten Dollars (\$10.00); and if the tax is not received on or before the last day of the
6 month following the due date, the Director shall add a total penalty equal to the greater of ten
7 (10) percent of the amount of the tax, or Fifteen Dollars (\$15.00); and if the tax is not received
8 on or before the last day of the second month following the due date, the Director shall add a
9 total penalty equal to the greater of twenty (20) percent of the amount of the tax, or Twenty
10 Dollars (\$20.00).
11

12
13 B. If payment of any tax deficiency assessed by the Director is not received by the due
14 date specified in the notice, or any extension thereof, the Director shall add a penalty equal to the
15 greater of ten (10) percent of the amount of the additional tax found due, or Ten Dollars (\$10.00).
16

17 C. If a citation or criminal complaint is issued by the Director for the collection of taxes,
18 fees, assessments, interest, or penalties, there shall be added thereto a penalty of ten (10) percent
19 of the amount due, but not less than Twenty Dollars (\$20.00).
20

21 D. If the Director determines that all or any part of a deficiency resulted from the
22 taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a
23 penalty of twenty-five (25) percent of the amount of the additional tax due.

24 1. A taxpayer fails to follow specific written tax reporting instructions when the
25 Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer
26 fails to act in accordance with those instructions. The Director shall not assess the penalty under
27
28

1 this subsection, SMC 5.55.110(D), upon any taxpayer that has made a good faith effort to comply
2 with the specific written instructions provided by the Director to that taxpayer.

3 2. Specific written instructions may be given as a part of a tax assessment, audit,
4 determination, or closing agreement, provided that such specific written instructions shall apply
5 only to the taxpayer addressed or referenced on such documents.
6

7 3. Any specific written instructions by the Director shall be clearly identified as
8 such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer
9 to the penalties imposed by this subsection.

10 E. If the Director finds that all or any part of the deficiency resulted from an intent to
11 evade the tax payable, the Director shall assess a penalty of fifty (50) percent of the additional tax
12 found to be due.
13

14 F. The aggregate of penalties imposed under subsections A and B, above, of this section
15 shall not exceed thirty (30) percent of the tax due, and shall not be less than Twenty Dollars
16 (\$20.00). This subsection does not prohibit or restrict the application of other penalties
17 authorized by law.
18

19 G. The penalties authorized by subsections D and E of this section shall be assessed in
20 accordance with the provisions of this chapter governing assessment of tax deficiencies. The
21 Director shall not impose both the evasion penalty and the penalty for disregarding specific
22 written instructions on the same tax found to be due.
23
24
25
26
27
28

1 **5.55.120 Cancellation of penalties.**

2 A. The Director may cancel any penalties imposed by SMC 5.55.110(A) and (B) if the
3 taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not
4 willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary
5 business care and prudence in making arrangements to file the return and pay the tax but was,
6 nevertheless, due t circumstances beyond its control, unable to file or pay by the due date. The
7 Director has no authority to cancel any other penalties or to cancel penalties for any other reason
8 except as provided in subsection C, of this section.
9

10 B. A request for cancellation of penalties must be received by the Director within thirty
11 (30) days after the date the Department mails the notice that the penalties are due. The request
12 must be in writing and contain competent proof of all pertinent facts supporting a reasonable
13 cause determination. In all cases the burden of proving the facts rests upon the taxpayer.
14

15 C. The Director may cancel the penalties imposed by SMC 5.55.110 (A) and (B) one
16 time only if a person:

- 17 1. is not currently licensed and filing returns;
18 2. was unaware of its responsibility to file and pay tax;
19 3. obtained business licenses and filed past due tax returns within thirty (30) days
20 after being notified by the Department; and
21 4. owes no tax for the delinquent tax periods.
22

23 D. The Director shall not cancel any interest charged upon amounts due.

24 E. The Director shall adopt administrative rules for the cancellation of penalties imposed
25 under this chapter.
26

1
2 **5.55.130 Taxpayer quitting business - Liability of successor.**

3 A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of
4 his business or his stock of goods, any tax payable hereunder shall become immediately due and
5 payable. Such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.
6

7 B. Any person who becomes a successor shall be liable for the full amount of any tax
8 owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due
9 to the City from the taxpayer until such time as:

10 1. the taxpayer shall produce a receipt from the City showing payment in full of
11 any tax due or a certificate that no tax is due; or

12 2. more than six (6) months has passed since the successor notified the Director
13 of the acquisition and the Director has not issued and notified the successor of an
14 assessment.
15

16 C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment
17 upon the purchase price. If such payment is greater in amount than the purchase price, the
18 amount of the difference shall become a debt due such successor from the taxpayer.
19

20 D. Notwithstanding the above, if a successor gives written notice to the Director of the
21 acquisition, and the Department does not within six (6) months of the date it received the notice
22 issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the
23 successor shall not be liable for the tax.
24
25
26
27
28

1 **5.55.140 Review of Director's Assessment or Denial of Refund.**

2 A. Any person, except one who has failed to provide or to keep and preserve books,
3 records, and invoices as required in this chapter, aggrieved by the amount of the tax, fee, or
4 penalty assessed by the Director of Finance, or by the denial of a refund by the Director of
5 Finance, may, having paid any tax, fee, interest or penalty owing, except as provided in
6 subsection C below:
7

8 1. Appeal the Director's deficiency assessment or refund denial to the
9 Hearing Examiner by filing a petition for review with the Office of the Hearing Examiner; or

10 2. File a complaint in King County Superior Court for refund of taxes paid.
11
12 The petition or complaint shall be filed within thirty (30) days from the date that the assessment
13 or denial notice was mailed to the taxpayer, or within the period covered by any extension of said
14 due date granted in writing by the Director of Finance. The Director of Finance may extend the
15 due date for filing an appeal with the Hearing Examiner or a refund suit with the Superior Court
16 only if the taxpayer, within the thirty (30) day period, makes written application showing good
17 cause why an extension is necessary.
18

19 B. The Director's assessment or refund denial shall be regarded as prima facie correct,
20 and the person shall have the burden to prove that the tax assessed or paid by him is incorrect,
21 either in whole or in part, and to establish the correct amount of tax.
22

23 C. Except as provided in SMC 5.55.150(B), assessments totaling less than Fifty
24 Thousand Dollars (\$50,000) (including penalty and interest) may be appealed to the Hearing
25 Examiner without prior payment.
26
27
28

1 D. The methods for obtaining review of the Director's assessment or refund denial set
2 forth in this section are exclusive, and must be strictly complied with.

3
4 **5.55.150 Appeal to the Hearing Examiner.**

5 A. A person electing to appeal to the Hearing Examiner must provide a copy of the
6 petition to the Director of Finance and the City Attorney on or before the date the petition is filed
7 with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided
8 to the Director of Finance and City Attorney within the thirty (30) day period, and a complaint is
9 not filed, the assessment covered by the notice shall become final and no refund request may be
10 made for the audit period covered in that assessment.
11

12 B. The petition shall set forth the reasons why the assessment should be reversed or
13 modified. The petition shall also include the amount of the tax, fee, interest, or penalties that the
14 taxpayer believes to be due. If the assessment is less than Fifty Thousand Dollars (\$50,000) the
15 taxpayer shall pay that portion of the assessment, if any, conceded to be due. If the appeal is
16 from the denial of a refund, the petition shall set forth the amount of refund or credit the taxpayer
17 believes to be due.
18

19 C. The Hearing Examiner shall fix the time and place of the hearing and notify the
20 taxpayer thereof by mail. The hearing shall be conducted in accordance with the procedures for
21 hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle
22 Municipal Code).
23

24 D. The Hearing Examiner may, by subpoena, require the attendance of any person at
25 the hearing, and may also require him or her to produce pertinent books and records. Any person
26
27



1 served with such a subpoena shall appear at the time and place therein stated and produce the
2 books and records required, if any, and shall testify truthfully under oath administered by the
3 Hearing Examiner as to any matter required of him or her pertinent to the appeal; and it shall be
4 unlawful for him or her to fail or refuse to do so. The City Attorney shall seek enforcement of a
5 Hearing Examiner subpoena in an appropriate court.
6

7 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or
8 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or
9 modification is proper if the Director's assessment or refund denial violates the terms of this
10 chapter, or SMC Chapters 5.30, 5.32, 5.40, 5.45, 5.48, or 5.52.
11

12 **5.55.160 Judicial Review of the Hearing Examiner's Decision.**

13 A. The taxpayer, any other person beneficially interested, or the Director of Finance, may
14 obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review
15 in the King County Superior Court within fourteen (14) days from the date of the decision in
16 accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law and court
17 rules.
18

19 B. The decision of the Hearing Examiner shall be final and conclusive unless review is
20 sought in compliance with this section.

21 **5.55.165 Director to make rules.**

22 The Director shall have the power and it shall be his or her duty, from time to time, to
23 adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC
24 Chapters 5.30, 5.32, 5.40, 5.44, 5.48, 5.52, or with law for the purpose of carrying out the
25
26
27
28

1 provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such
2 rule or regulation.

3
4 **5.55.170 Ancillary authority of Director.**

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

7 A. To conduct an audit or a joint audit of a taxpayer by using an auditor employed by the
8 City of Seattle, another city, or a contract auditor; provided, that such contract auditor's pay is
9 not in any manner based upon the amount of tax assessed;

10 B. To allocate or apportion the gross proceeds of sales, gross receipts, or gross income of
11 the business, or taxes due from any person that is required to pay an eligible gross receipts tax to
12 more than one Washington city; or

13 C. To apply the City's tax prospectively where a taxpayer has no office or place of
14 business within the City and has paid tax on all gross income to another Washington city where
15 the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and
16 the income was not derived from contracts with the City.
17

18
19 **5.55.180 Mailing of Notices.**

20 Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent
21 by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of
22 the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not
23 release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such
24 failure operate to extend any time limit set by the provisions of this chapter. It is the
25
26
27
28

1 responsibility of the taxpayer to inform the Director in writing of a change in the taxpayer's
2 address.

3
4 **5.55.190 Tax declared additional.**

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

8
9 **5.55.200 Public disclosure – Confidentiality - Information sharing.**

10 A. For purposes of this section, unless a different meaning is clearly established by
11 context, the following definitions apply:

- 12 1. "Disclose" means to make known to any person in any manner.
- 13 2. "Tax information" means:
- 14 a. a taxpayer's identity;
- 15 b. the nature, source, or amount of the taxpayer's income, payments,
- 16 receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over
- 17 assessments, or tax payments, whether taken from the taxpayer's books and records or any other
- 18 source;
- 19 c. whether the taxpayer's return was, is being, or will be examined or
- 20 subject to other investigation or processing; or
- 21 d. other data received by, recorded by, prepared by, or provided to the
- 22 Director with respect to a taxpayer.
- 23
24
25
26
27
28



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

3 B. Tax returns and information are "public records" as that term is defined in RCW
4 42.17.020. The Director shall not disclose tax information if disclosure would violate RCW
5 Chapter 42.17 or any other law prohibiting disclosure.
6

7 C. Tax information may be disclosed to the following:

8 1. The Mayor, members of the City Council, City Attorney, City Clerk, or their
9 authorized designees, for official purposes;

10 2. Any agency or officer of the United States of America, the State of
11 Washington, or a tax department of any state, county, city or town, provided that the agency or
12 officer grants substantially similar privileges to the City, and further provided that the agency or
13 officer shall not further disclose the tax information except as authorized in this section.
14

15 D. Nothing in this section shall prevent the use of tax information by the Director or any
16 other agency in any civil or criminal action involving any license, tax, interest, or penalty.
17

18 E. A person disclosing tax information to a person not entitled to receive that
19 information under this section is guilty of a misdemeanor, and if the person violating this privacy
20 requirements is an officer or employee of the City, such person may be required to forfeit their
21 office or employment.
22

23 **5.55.210 Tax constitutes debt.**

24 Any license fee or tax due and unpaid under this chapter, and all interest and penalties
25 thereon, shall constitute a debt to the City of Seattle and may be collected in the same manner as
26 any other debt in like amount, which remedy shall be in addition to all other existing remedies.
27
28

5.55.220 Unlawful actions - Violation - Penalties.

A. It shall be unlawful for any person liable for amounts due under this chapter, or SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52, or any lawful rule or regulation adopted by the Director;
2. To make or manufacture any license required by this chapter except upon order of the Director;
3. To make any false statement on any license application or tax return;
4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52;
6. To fail to appear or testify in response to a subpoena issued pursuant to SMC 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.40, 5.45, 5.48 and 5.52;
7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter; or
8. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.40, 5.45, 5.48, and 5.52.



1 B. Each violation of or failure to comply with the provisions of this chapter, or SMC
2 Chapters 5.32, 5.40, 5.45, 5.48, or 5.52 shall constitute a separate offense. Any person who
3 commits an act defined in subsection A of this section is guilty of a gross misdemeanor,
4 punishable in accordance with SMC 12A.02.070. The provisions of chapters 12A.02 and 12A.04
5 of the Seattle Municipal Code apply to the offenses defined in subsection A of this section except
6 that liability is absolute and none of the mental states described in SMC 12A.04.030 need be
7 proved.
8

9 C. Any person, or officer of a corporation, convicted of continuing to engage in business
10 after the revocation of a license shall be guilty of a class C felony in accordance with
11 RCW 9A.20.
12

13 D. Prosecution pursuant to this section shall not be commenced more than four (4) years
14 after the Director knew or should have known that the act(s) constituting the offense occurred.
15 The penalties and punishments established by this section shall be in addition to all other
16 penalties provided by law.
17

18 **5.55.230 Suspension or Revocation of business license.**

19 A. The Director, or his or her designee, shall have the power and authority to suspend
20 or revoke any business license or amusement device license issued under the provisions of this
21 chapter. The Director, or his or her designee, shall notify such licensee in writing by certified
22 mail of the suspension or revocation of his or her license and the grounds therefor. Any license
23 issued under this chapter may be suspended or revoked based on one or more of the following
24 grounds:
25

- 26 1. The license was procured by fraud or false representation of fact.
27
28



1 2. The licensee has failed to comply with any provisions of this chapter.

2 3. The licensee has failed to comply with any provisions of SMC Chapters
3 5.32, 5.40, 5.45, 5.48 or 5.52.

4 4. The licensee is in default in any payment of any license fee or tax under
5 Title 5 or Title 6.

6
7 B. Any licensee may, within thirty (30) days from the date that the suspension or
8 revocation notice was mailed to the licensee, appeal from such suspension or revocation by filing
9 a written notice of appeal ("petition") setting forth the grounds therefor with the Office of the
10 Hearing Examiner. The licensee must provide a copy of the petition to the Director of Finance
11 and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The
12 hearing shall be conducted in accordance with the procedures for hearing contested cases in the
13 Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code). The Hearing
14 Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and
15 place of the hearing. After the hearing thereon the Hearing Examiner shall, after appropriate
16 findings of fact, and conclusions of law, affirm, modify, or overrule the suspension or revocation
17 and reinstate the license, and may impose any terms upon the continuance of the license which
18 the Hearing Examiner may deem advisable.

19
20
21 No suspension or revocation of a license issued pursuant to the provisions of this chapter
22 shall take effect until thirty (30) days after the mailing of the notice thereof by the Director, and if
23 appeal is taken as herein prescribed the suspension or revocation shall be stayed pending final
24 action by the Hearing Examiner. All licenses which are suspended or revoked shall be
25 surrendered to the City on the effective date of such suspension or revocation.
26
27
28



1 The decision of the Hearing Examiner shall be final. The licensee and/or the Director may
2 seek review of the decision of the Hearing Examiner to the Superior Court of Washington in and
3 for King County within fourteen (14) days from the date of the decision.

4 C. Upon revocation of any license no portion of the license fee shall be returned to the
5 licensee.

6
7 **5.55.235 License not obtained.**

8 License fees shall be collected for the application year only, except in the case of a person
9 found to be engaged in business in the City without a license. Demands for any license fees or
10 penalties due as a result of failure to obtain and maintain a license as provided for under this
11 subchapter may be made by the Director within ten (10) years after the close of the calendar year
12 in which the same accrued.

13
14 **5.55.240 Closing agreement provisions.** The Director may enter into an
15 agreement in writing with any person relating to the liability of such person in respect of any tax
16 imposed by any of the chapters within this title and administered by the Director for any taxable
17 period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and
18 the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax
19 immunity covered thereby, and, except upon a showing of fraud or malfeasance, or
20 misrepresentation of a material fact:
21

22
23 A. The case shall not be reopened as to the matters agreed upon, or the agreement
24 modified, by the Director or the taxpayer; and
25
26
27
28

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

4 **5.55.250 Charge-off of uncollectible taxes.** The Director may charge off any tax,
5 penalty, or interest that is owed by a taxpayer, if the Director ascertains that the cost of collecting
6 such amounts would be greater than the total amount that is owed or likely to be collected from
7 the taxpayer.
8

9 **5.55.260 Personal liability of persons in control of admission taxes.**

10 In addition to persons liable for tax pursuant to SMC Section 5.40.070:

11 A. Any individual who is responsible for collecting, accounting for, or paying over the
12 admission tax imposed by SMC Chapter 5.40, and who willfully fails to collect, account for, or
13 pay over such tax, or willfully attempts to evade or defeat such tax or the payment thereof, shall,
14 in addition to other penalties provided by law, be liable to pay the total amount of the tax evaded,
15 not collected, or not accounted for and paid over.
16
17

18 B. An individual is responsible for collecting, accounting for, or paying over the tax if he
19 has control over, or supervision of, the receipt of admissions charges, the filing of returns, or the
20 remittance of the tax.

21 C. For purposes of this section, "willfully" means that the failure was the result of an
22 intentional, conscious, and voluntary course of action.
23

24 D. An individual shall be liable only for taxes which became due during the period he
25 was required to collect, account for, and pay over the tax, plus interest and penalties on the tax.
26
27
28

1 E. An individual is not liable under this section if the failure to collect, account for, or
2 pay over the tax is due to reasons beyond his control, as determined by rules promulgated by the
3 Director.

4 F. The Director shall assess the liability in the same manner as a tax deficiency pursuant
5 to SMC 5.55.095 and the individual shall have the right of review provided by SMC 5.55.140. If
6 not appealed within the time provided in section SMC 5.55.140, the assessment is final and no
7 refund request may be made for the period covered in the assessment.
8

9 G. Once established, liability for the tax is joint and several. The Director may collect
10 the total amount of tax, but not more, either from individuals liable under this section or persons
11 liable under SMC 5.40.070, or both. This section does not relieve persons of other tax liabilities
12 or otherwise impair other tax collection remedies afforded by law.
13

14 **5.55.270 Severability**

15 If any part, provision or section of this chapter is held to be void or unconstitutional, all
16 other parts, provisions, and sections of this chapter not expressly so held to be void or
17 unconstitutional shall continue in full force and effect.
18

19 **SECTION 5.** Effective January 1, 2002, the following sections of Seattle Municipal
20 Code Title 5 are repealed: SMC Sections 5.32.010, 5.32.030, 5.32.040, 5.32.050, 5.32.060,
21 5.32.070, 5.32.080, 5.32.090, 5.32.100, 5.32.110, 5.32.120, 5.32.130, 5.32.140, 5.32.180;
22 5.40.075, 5.40.100, 5.40.110, 5.40.135, 5.40.140, 5.40.150; 5.48.030, 5.48.040, 5.48.080,
23 5.48.090, 5.48.095, 5.48.100, 5.48.110, 5.48.120, 5.48.135, 5.48.140, 5.48.150, 5.48.160,
24 5.48.170, 5.48.180, 5.48.200, 5.48.210, 5.48.220, 5.48.270;
25
26
27
28

1 5.52.040, 5.52.050, 5.52.060, 5.52.070, 5.52.080, 5.52.090, 5.52.100, 5.52.110, 5.52.120,
2 5.52.130, 5.52.140, 5.52.150, 5.52.160.

3 **SECTION 6.** Effective January 1, 2002, Section 5.32.020 of the Seattle Municipal Code is
4 amended as follows:

5 **5.32.020 Exercise of power to license for revenue.**

6
7 The provisions of this chapter shall be deemed an exercise of the power of the City to
8 license for revenue and regulation. The provisions of this chapter are subject to periodic statutory
9 or administrative rule changes or judicial interpretations of the ordinances or rules. The
10 responsibility rests with the licensee to reconfirm tax computation procedures and remain in
11 compliance with the City code.

12 **SECTION 7.** Effective January 1, 2002, Section 5.32.150 of the Seattle Municipal Code
13 is amended as follows:

14 **5.32.150 Amusement ~~l((L))~~ license required.**

15 It is unlawful for any person to own any amusement device, which is available for use by
16 the public, without having first obtained an amusement device license issued in accordance with
17 the provisions of this chapter. The license shall be attached to the amusement device at all times
18 when in use or play or available for use or play so that it is readily visible. This license is in
19 addition to the business license required in SMC 5.55.030.

20
21 **SECTION 8.** Effective January 1, 2002, Section 5.32.160 of the Seattle Municipal Code
22 is amended as follows:

23 **5.32.160 Exemptions.**

24 No amusement device license is required under this chapter for an amusement device if:

25 A. An admissions tax is collected upon its use pursuant to Ordinance 72495, as now
26 or hereafter amended; or

27 B. The maximum price for one (1) use or one (1) play is less than Twenty-five Cents (\$.25).
28

1 **SECTION 9.** Effective January 1, 2002, Section 5.32.170 of the Seattle Municipal Code
2 is amended as follows:

3 **5.32.170 License fees.**

4 A. The license fee for any amusement device which is operated or activated by the insertion
5 of a coin, currency, token, credit card, debit card, or other payment medium shall be based upon
6 the minimum price levied for one (1) play or one (1) use of the device. The annual license fee
7 shall be one hundred (100) times the price of one (1) play or use of the device rounded to the
8 next highest Fifty Dollars (\$50). The maximum license fee shall be Fifteen Hundred Dollars
9 (\$1,500) per device per year, with the following exceptions:
10

11 1. The license fee for a countertop device or electronic dart board shall not exceed
12 Twenty-five Dollars (\$25); and
13

14 2. The license fee for a pool table, billiard table, shuffle board, jukebox or other
15 music device shall not exceed Fifty Dollars (\$50).
16

17 B. The license fee for any amusement device which is not operated or activated by
18 the insertion of a coin, currency, token, credit card, debit card, or other payment medium shall be
19 Five Hundred Dollars (\$500) per year; except the license for a pool table, billiard table or shuffle
20 board shall not exceed Fifty Dollars (\$50) per year.

21 C. The operator of an event, not to exceed three (3) calendar days in length, may obtain a
22 Special Event License in lieu of the amusement device license required under this chapter. The
23 fee for the license shall be Five Dollars (\$5) per device offered for play at such event; provided,
24 the minimum fee shall be Twenty-five Dollars (\$25) and the maximum fee shall be One Hundred
25 Dollars (\$100).
26
27
28



1 D. Revenue from the operation of devices, whether licensed or unlicensed, is subject to the
2 provisions of Chapter 5.4((4))5 of the Seattle Municipal Code.

3 **SECTION 10.** Effective January 1, 2002, Section 5.32.200 of the Seattle Municipal Code is
4 amended as follows:

5 **5.32.200 Unlawful acts.**

6 In addition to the unlawful acts contained in SMC 5.55.220 the following are also unlawful

7 acts: A. It is unlawful for any ~~((owner, operator, manager or other))~~ person in charge of any
8 place or location to permit or allow to be used or played in such place any amusement device not
9 having attached thereto an amusement device license.
10

11 B. It is unlawful for the owner of any amusement device to fail to display his or her name
12 and current address on each amusement device when in use or play or available for use or play.
13

14 C. It is unlawful for any ~~((the owner, operator, manager, or other))~~ person in charge of any
15 place or location to permit, or allow to be used, or played in such place any amusement device
16 not having attached thereto the name and current address of the owner of the amusement device.
17

18 D. Remedial action by the City may include fines and imprisonment as provided for in
19 ~~((Section SMC 5.32.130))~~ SMC 5.55.220.

20 **SECTION 11.** Effective January 1, 2002, a new Section 5.40.005 is added to Chapter
21 5.40 of the Seattle Municipal Code as follows:

22 **5.40.005 General Administrative Provisions Apply.**

23 The provisions of SMC Chapter 5.55 shall be fully applicable to the provisions of this
24 Chapter except as expressly stated to the contrary herein.
25

26 **SECTION 12.** Effective January 1, 2002, Section 5.40.010 of the Seattle Municipal
27 Code is amended as follows:
28

1 **5.40.010 Definitions.**

2 For the purposes of this chapter, the words and terms contained in SMC Chapter 5.30
3 shall apply throughout this Chapter unless expressly provided otherwise herein. ((have following
4 meanings:)) The following additional definitions shall apply throughout this Chapter:

5 A. "Admission charge," in addition to its usual and ordinary meaning, includes but is not
6 limited in meaning to:

- 7 1. A charge made for season tickets or subscriptions;
- 8 2. A cover charge or a charge made for use of seats or tables, reserved or
9 otherwise, and similar accommodations;
- 10 3. A charge made for food or refreshments in any place where any free
11 entertainment, recreation or amusement is provided;
- 12 4. A charge made for rental or use of equipment or facilities for purposes of
13 recreation or amusement and, where the rental of the equipment or facilities is necessary
14 to the enjoyment of the privilege for which a general admission is charged, the combined
15 charge shall be considered as the admission charge;
- 16 5. A charge made for admission to any theater, dance hall, amphitheater, private
17 club, auditorium, observation tower, stadium, athletic pavilion or field, baseball or
18 athletic park, circus, side show, swimming pool, outdoor amusement park or any similar
19 place; and includes equipment to which persons are admitted for purposes of recreation
20 such as merry-go-rounds, ferris wheels, dodge-ems, roller coasters, go-carts and other
21 rides whether such rides are restricted to tracks or not;
- 22
23
24
25
26
27
28



1 **SMC 5.40.025 Tax exemption -- Minimum charge -- Schools --PTSA's --**

2 **Bumbershoot.**

3 The admission tax as imposed ((~~defined~~)) in Section 5.40.020 shall not apply to anyone
4 paying an admission charge:

- 5 1. In the amount of Ten Cents (\$0.10) or less; or
6
7 2. To any activity of any elementary or secondary school as contemplated by RCW
8 35.21.280; or
9 3. To any activity of any Parent-Teacher-Student Association (PTSA), Parent-Teacher
10 Association (PTA), or similar organization, provided that the proceeds of the activity are used to
11 benefit an elementary or secondary school; or
12
13 4. To the annual Bumbershoot Festival held on Labor Day and the preceding Thursday,
14 Friday, Saturday and Sunday((-)); or
15
16 5. To the Woodland Park Zoo.

17 A discount admission shall be subject to tax as contemplated by Section 5.40.056
18 although the discounted price is Ten Cents (\$0.10) or less, unless a criterion in Section 5.40.056
19 for applying the lower price is satisfied.

20 **SECTION 14.** Effective January 1, 2002, Section 5.40.060 of the Seattle Municipal
21 Code is amended as follows:

22 **5.40.060 Ticket ((~~numbering and~~))information and unlawful acts.**

23 A. Ticket information.
24
25
26
27
28

1 _____ 1. Whenever a charge is made for admission to any place, a serially numbered or reserve
2 seat ticket shall be furnished the person paying such charge unless written approval has been
3 obtained from the ((Finance)) Director of Finance to use a turnstile or other counting device
4 which will accurately count the number of paid admissions. The established price, service
5 charge, City tax and total price at which every such admission ticket or card is sold shall be
6 separately, conspicuously and indelibly printed or written on the face or back of that part of the
7 ticket which is to be taken up by the management of the place to which admission is gained.
8

9 _____ 2. It shall be unlawful for anyone to sell an admission ticket or card on which the name
10 of the person conducting the event and the price is not so printed, stamped or written, or to sell or
11 offer to sell an admission ticket or card at a price in excess of the price printed, stamped or
12 written thereon. The admission tax due shall be based on the total sum of the established price
13 plus any service charge printed on the ticket. When a charge is made for admission, a sign must
14 be posted in a conspicuous place on the entrance or ticket office which breaks down the
15 admission charge as follows:
16

17
18 Established Price

19 Service Charge (if any)

20 City Tax

21 Total Price

22

23 It is unlawful to charge a service charge on admission tickets unless the purchaser is fully
24 informed of the purpose of such charge by published or posted notice in advance of the ticket
25 sale.
26
27
28



1 3. The Director of Finance or his/her designee, who has been commissioned as a Special
2 Police Officer, is authorized to confiscate, seize, or otherwise remove from sale, or offered sale,
3 any ticket in violation of or offered for sale or sold in violation of SMC subsections 5.40.060
4 (A)(1) or (2).

5 B. It is unlawful for any person to request a donation or contribution that represents an
6 admission charge or fee for the privilege of entering, attending, or remaining in attendance at any
7 theater, dance, amusement or other place of public performance ((as a donation or contribution))
8 where persons are not admitted or allowed to remain in attendance without payment of such
9 donation or contribution ((charge or fee)). A "suggested donation" shall not be stated on an
10 invitation or accompanying literature.

11 **SECTION 15.** Effective January 1, 2002, Section 5.40.070 of the Seattle Municipal
12 Code is amended as follows:

13 **5.40.070 Remittance of tax.**

14 Any((one,)) person ((including any municipal or quasi-municipal corporation)) who
15 receives any payment for any admission charge on which a tax is levied under this chapter shall
16 collect the amount of the tax from the person making the admission payment at the time payment
17 is made. The person receiving payment ((and)) shall remit the ((same)) admission tax to the
18 Director of Finance ((Director)) ((as provided in this section.)) according to the provision
19 contained in SMC 5.55 except where specifically provided for herein. The tax ((required to
20 be)) collected under this chapter shall be deemed held in trust by the person required to collect the
21 same until remitted to the Director((as provided in this section)). ((Anyone required to collect



1 ~~the tax imposed under this chapter who~~) Persons failing((s)) to collect the ~~((same))~~admission tax,
2 or who collects the ~~((same))~~tax but fails to remit the ~~((same))~~tax to the Director ~~((in the manner~~
3 ~~prescribed by this chapter))~~ shall be liable to the City for the amount of such tax. ~~((, and))~~ Such
4 person shall, unless the remittance be made as required in this section, be guilty of a violation of
5 this chapter whether such failure be the result of his or its own act or the result of acts or
6 conditions beyond his or its control. ~~((The tax imposed under this chapter shall be collected from~~
7 ~~the person paying the admission charge at the time the admission charge is paid and such taxes~~
8 ~~shall be remitted by the person collecting the tax to the Director in monthly remittances on or~~
9 ~~before the fifteenth day of the month next succeeding the end of the monthly period in which the~~
10 ~~tax is collected or received and accompanied by such reports as the Director shall require:~~
11 ~~Provided, that the Director for good cause shown, may extend the time for making and filing the~~
12 ~~return and remittance of the tax due. Payment or remittance of the tax collected may be made by~~
13 ~~check unless payment or remittance is otherwise required by the Director, but payment by check~~
14 ~~shall not relieve the one collecting the tax from liability for payment and remittance of the tax to~~
15 ~~the Director unless the check is in the full and correct amount and until the check is honored.))~~
16
17
18
19 Anyone receiving any payment for admissions shall make out a return upon such forms and
20 setting forth such information as the Director may require, showing the amount of the tax upon
21 admissions for which he is liable for the preceding monthly period, and shall sign and transmit
22 the same to the Director with a remittance for said amount. ~~((: Provided, that the Director may in~~
23 ~~his or her discretion require verified annual re- turns from anyone receiving admission payments~~
24 ~~setting forth such additional information as he or she may deem necessary to determine correctly~~
25 ~~the amount of tax collected and payable. If the return provided for in this section is not made and~~
26
27
28



1 ~~the tax is not collected and paid within twenty five (25) days after the end of the month in which~~
2 ~~the tax was collected, the Director shall add a penalty of ten percent (10%) of the tax per month~~
3 ~~or fraction thereof for each month overdue which shall be added to the amount of the tax due,~~
4 ~~and remitted in the same manner.))~~ Whenever any theater, circus, show, exhibition,
5 entertainment or amusement makes an admission charge which is subject to the tax levied in this
6 chapter, and the same is of a temporary or transitory nature or there exists a reasonable question
7 of financial responsibility, of which the Director shall be the judge, the Director may require the
8 report and remittance of the admission tax immediately upon the collection of the same, at the
9 conclusion of the performance or exhibition, or at the conclusion of the series of performances or
10 exhibitions or at such other times as he or she shall determine. ~~((; and f))~~ Failure to comply with
11 any requirement of the Director as to report and remittance of the tax as required shall be a
12 violation of this chapter. Everyone liable for the collection and payment of the tax imposed by
13 this chapter shall keep and preserve for a period of five (5) years all unused tickets, ticket
14 manifests, books and all other records from which can be determined the amount of admission
15 tax which he or she was liable to remit under the provisions of this chapter, and all such tickets,
16 books and records shall be open for examination and audit at all reasonable times by the
17 ~~((Finance))~~ Director of Finance or his or her duly authorized agent. Written permission may be
18 granted by the Director to destroy unused tickets prior to the expiration of the five (5) year
19 period.
20
21
22
23
24

25 **SECTION 16.** Effective January 1, 2002, Section 5.40.080 of the Seattle Municipal Code
26 is amended as follows:
27
28



1
2 **5.40.080 Certificate of registration—Required—Application.**

3 Any person conducting or operating any place for entrance to which an admission charge
4 is made shall, prior to the commencement of any such activity, and on a form prescribed by the
5 ~~((Finance)) Director, ((make application to the Director for issuance of a certificate of~~
6 ~~registration, the fee for which shall be One Dollar (\$1.00), which certificate shall continue valid~~
7 ~~until December 31st of the year in which the same is issued. Such certificate of registration, or~~
8 ~~duplicate original copies thereof to be issued without additional charge, shall be posted in a~~
9 ~~conspicuous place in each ticket or box office where tickets of admission are sold. file an~~
10 ~~application with the Director to conduct or operate such activity. The application shall be filed~~
11 ~~whether or not the person has received an exemption from collecting the tax under the provision~~
12 ~~of this chapter. The Director shall then issue a business license with an admission tax~~
13 ~~endorsement. The endorsement shall continue valid until December 31st of the year in which the~~
14 ~~application was filed. Failure to obtain or renew the endorsement prior to conducting the activity~~
15 ~~for which an admission charge is made will result in the penalties contained in SMC 5.55.030~~
16 ~~(E).~~

17
18
19
20 **SECTION 17.** Effective January 1, 2002, a new Section 5.48.015 is added to the Seattle
21 Municipal Code as follows:
22
23
24
25
26
27
28

1 **5.48.015 Administrative Provisions.**

2 The provisions contained in SMC Chapter 5.55 shall have full force and application with
3 respect to taxes imposed under the provisions of this chapter except as expressly stated to the
4 contrary herein

5 **SECTION 18.** Effective January 1, 2002, Section 5.48.020 of the Seattle
6 Municipal Code is amended as follows:

7 **5.48.020 Definitions.**

8 A. The definitions contained in SMC 5.30 shall be fully applicable to the provisions ((In
9 construing the provisions)) of this chapter unless otherwise expressly defined in this chapter.

10 ~~((declared or clearly apparent from the context, the following definitions shall be applied:))~~

11 ~~((1. "Business" includes all activities engaged in with the object of gain, benefit or advantage to~~
12 ~~the taxpayer or to another person or class, directly or indirectly.~~

13 ~~2. "City" means The City of Seattle.~~

14 ~~3. "Cellular Telephone service" is a voice and data telephone/telecommunications system based~~
15 ~~in whole or substantial part on wireless radio communications, whether or not the~~

16 ~~communications are subject to regulation by the Washington Utilities and Transportation~~

17 ~~Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes~~

18 ~~other wireless radio communications services such as specialized mobile radio (SMR), personal~~
19 ~~communications services (PCS), and any other evolving wireless radio communications~~

20 ~~technology which accomplishes the same purpose as cellular mobile service. Cellular telephone~~
21 ~~service is included within the definitions of "telephone business" for purposes of this chapter and~~

22 ~~Chapter 5.44.~~

1 ~~4. "Competitive telephone service" means the providing by any person of telecommunications~~
2 ~~equipment or apparatus, directory advertising and lease of telephone street directories, or service~~
3 ~~related to that equipment or apparatus such as repair or maintenance service, if the equipment or~~
4 ~~apparatus is of a type which may be provided by persons not subject to regulation as telephone~~
5 ~~companies under Title 80 RCW, and for which a separate charge is made. Transmission of~~
6 ~~communication through cellular telephones is classified as "telephone business" rather than~~
7 ~~"competitive telephone service."~~

9 ~~5. "Construction, Demolition and Landclearing Waste" or "CDL Waste" has the meaning given~~
10 ~~in SMC Section 21.36.012.~~

12 ~~6. "Department" means the Department of Finance of The City of Seattle, or its functional~~
13 ~~successor.~~

14 ~~7. "Director" means the Director of Finance of The City of Seattle, or his or her functional~~
15 ~~successor~~

16 ~~8. "Garbage" has the meaning given in SMC Section 21.36.014.~~

17 ~~9.))~~

18 B. "Gross income" means the value proceeding or accruing from the sale of tangible property or
19 service, and receipts (including all sums earned or charged, whether received or not), by reason
20 of the investment of capital in the business engaged in, including rentals, royalties, fees, or other
21 emoluments, however designated (excluding receipts or proceeds from the use or sale of real
22 property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other
23 evidences of indebtedness, or stocks and the like) and without any deduction on account of the
24 cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any
25 expense whatsoever, and without any deduction on account of losses, including the amount of
26 credit losses actually sustained by the taxpayer whose regular books or accounts are kept upon an
27 accrual basis.

1 ~~((10. "Nonprofit tax exempt organization" means an organization, corporation, or association~~
2 ~~which is currently recognized by the United States of America as exempt from federal income~~
3 ~~taxation pursuant to Section 501(c)(1), (3), (4), or (6) of the Internal Revenue code of 1954, 26~~
4 ~~U.S.C. §501, as now existing or hereafter amended.~~

5 ~~11. "Pager service" means service provided by means of an electronic device which has the~~
6 ~~ability to send or receive voice or digital messages transmitted through the local telephone~~
7 ~~network, via satellite or any other form of voice data transmission. 12. "Person or persons"~~
8 ~~means any individual, firm, receiver, assignee, trustee in bankruptcy, trust, estate, firm,~~
9 ~~partnership, joint venture, joint stock company, corporation, association, society, limited liability~~
10 ~~corporation, and other association of natural persons, whether acting by themselves or by~~
11 ~~servants, agents, or employees and includes the United States or any instrumentality thereof,~~
12 ~~provided a valid tax may be levied upon or collected therefrom under the provisions of this~~
13 ~~chapter. The term includes all nonprofit tax exempt organizations.~~

14 ~~13. "Recovered material" means a usable or marketable product or commodity that results from~~
15 ~~recycling or material owned or acquired from another, but excludes use for landfill or~~
16 ~~incineration.~~

17 ~~14. "Recyclable" means material:~~

18 ~~a. That is collected for recycling or reuse, such as papers, glass, plastics, used wood, sand,~~
19 ~~building debris, metals, yardwaste, used oil and tires; and~~

20 ~~b. That if not collected for recycling would otherwise be destined for disposal at a~~
21 ~~landfill or incineration.~~

1 ~~15. "Recycled material" means material that is in fact recycled, re-used, or reprocessed after~~
2 ~~collection; and if not recycled, re-used or reprocessed, would have been destined for disposal at a~~
3 ~~landfill or incineration.~~

4 ~~16. "Recycling" has the meaning given in SMC Section 21.36.016.~~

5 ~~17. "Rubbish" has the meaning given in SMC Section 21.36.016.~~

6 ~~18. "Solid waste" has the meaning given in SMC Section 21.36.016.~~

7 ~~19. "Successor" means any person who through direct or mesne conveyance, purchases or~~
8 ~~succeeds to the business, or portion thereof, or the whole or any part of the stock of goods, wares~~
9 ~~or merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging~~
10 ~~or otherwise disposing of his or her business. Any person obligated to fulfill the terms of a~~
11 ~~contract shall be deemed a successor to any contractor defaulting in the performance of any~~
12 ~~contract as to which such person is a surety or guarantor.~~

13 ~~20. "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.~~

14 ~~21. "Tax year" or "taxable year" shall mean either the calendar year or the taxpayer's fiscal~~
15 ~~year when permission is obtained from the Director of Finance to use a fiscal year in lieu of the~~
16 ~~calendar year.~~

17 ~~22. "Telephone business" means the business of providing access to a local telephone~~
18 ~~network, local telephone network switching service, toll service, coin telephone services,~~
19 ~~telephonic, video, data, cellular telephone service, pager service, or similar communication, or~~
20 ~~transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or~~
21 ~~similar communication or transmission system. The term includes cooperative or farmer line~~
22 ~~telephone companies or associations operating exchanges. "Telephone business" does not include~~
23
24
25
26
27
28

1 ~~the providing of competitive telephone service, or providing of cable television service, or other~~
2 ~~providing of broadcast services by radio or television stations.~~

3 ~~23. "Within the City" or "in the City" includes but is not limited to all federal areas lying within~~
4 ~~the boundaries of The City of Seattle.~~

5 ~~24. "Yardwaste" has the meaning given in SMC Section 21.36.016.~~

6 ~~B. Words in the singular number shall include the plural, and plural shall include the singular.~~

7 ~~Words of one (a) gender shall include all other genders.))~~

8
9 **SECTION 19.** Effective January 1, 2002, Section 5.48.050 of the Seattle Municipal Code is
10 amended as follows:

11
12 **5.48.050 Occupations subject to tax -- Amount.**

13 There are levied upon, and shall be collected from everyone, including The City of Seattle, on
14 account of certain business activities engaged in or carried on, annual license fees or occupation
15 taxes in the amount to be determined by the application of rates given against gross income as
16 follows:

17
18 A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six
19 (6) percent of the total gross income from such business provided to consumers within the
20 City((in the City)); provided, that effective January 1, 1987, the tax liability imposed under this
21 section shall not apply for that portion of gross income derived from charges to another
22 telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching
23 charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or
24 charges for, interstate services, which shall be taxed under SMC Chapter 5.4((4))5. The total
25 gross income shall also include all charges by the provider of cellular or cellular mobile
26
27
28

1 telephone services provided to its customers in any taxing jurisdiction (intrastate or interstate),
2 which are billed to a "place of primary use" located in Seattle by or for the home service
3 provider, irrespective of whether the services are provided by the home service provider.

4 B. Upon everyone engaged in or carrying on the business of selling, brokering, or
5 furnishing gas for hire, a fee or tax equal to six (6) percent of the total gross income from such
6 business in the City.

7 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of
8 selling or furnishing water for hire to consumers, a fee or tax equal to ten and one-tenth (10.1)
9 percent of the total gross income from such retail business in the City; provided that as to The
10 City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the
11 business of such utility done without, as well as within, the City.

12 D. Upon everyone, including The City of Seattle, engaged in or carrying on the business of
13 selling or furnishing electric light and power to consumers, a fee or tax equal to six (6) percent of
14 the total gross income from such business in the City. The fee or tax imposed upon the
15 municipal light and power system of the City shall be applicable to the business of such system
16 both within and without the City; provided, that as to the gross income derived by such system
17 from the production, sale or transfer of electric energy for resale or consumption outside the state
18 the fee or tax shall be in an amount equal to five (5) percent of the gross income.

19 E. Upon everyone conducting or engaged in the business of supplying steam heat or power
20 to consumers ~~((to the public for hire))~~, a fee or tax equal to six (6) percent of the total gross
21 income from such business in the City.

22 F. Upon The City of Seattle in respect to the conduct, maintenance, and operation of its
23 municipal drainage and wastewater system as a public utility a fee or tax equal to ten (10) percent
24

1 of the total gross income from the drainage and wastewater charges provided for under City
2 ordinances.

3 G. As to solid waste, see Section 5.48.055.

4 H. Upon everyone engaged in the business of operating or conducting a cable television
5 system (CATV), a fee or tax equal to ten (10) percent of the total gross income from gross
6 subscriber revenues. For purposes of this chapter, "gross subscriber revenues" means and
7 includes those revenues derived from the supplying of subscription service, that is, installation
8 fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission of
9 broadcast signals and access and origination channels and per-program or per-channel charges;
10 provided the tax liability imposed under this section shall not include leased channel revenue,
11 advertising revenues, or any other income derived from the system, which shall be taxed under
12 SMC Chapter 5.4((4))5. The business of operating or conducting a cable television system
13 (CATV) does not include the provision of interactive two-way communications over cable. Such
14 activities shall be reported under telephone business.
15
16
17

18 **SECTION 20.** Effective January 1, 2002, Section 5.48.070 of the Seattle Municipal Code is
19 amended as follows:

20 **5.48.070 Exceptions and deductions.**

21 A. There shall be excepted and deducted from the total gross income upon which the
22 license fee or tax is computed, amounts derived from business which the City is prohibited from
23 taxing under the Constitution or laws of the United States, the Constitution or laws of the state,
24 or the Charter ((note 1)) of the City; and any amounts collected by the taxpayer as an excise tax
25 (trust funds) and remitted to the taxing authority, including but not limited to the leasehold excise
26
27
28



1 tax, retail sales and use tax, State's refuse collection tax, and admission tax(~~(, and gambling~~
2 tax)).

3 B. ~~((Any person subject to a license fee or tax under the provisions of any ordinance of~~
4 ~~the City, other than this chapter or Ordinance 98776, (Note 2) on account of engaging in any~~
5 ~~activity for which he or she is liable for tax under this chapter, may deduct the amount of such~~
6 ~~fee or tax from the amount of fee or tax imposed by this chapter on account of such activity, but~~
7 ~~such person shall nevertheless, in the manner provided for in this chapter, apply for and procure~~
8 ~~an occupation license.))~~

9
10 ((C:)) A taxpayer engaged in a telephone business shall exclude from the total taxable
11 gross income charges to a telecommunications company, as defined in RCW 80.04.010, for
12 network telephone service, as defined in RCW 82.04.065, that the telecommunication company
13 purchases for the purpose of resale. This excluded revenue shall be recorded and taxed under
14 SMC Chapter 5.4((4))5.

15
16 C.((D:)) A deduction from gross income shall be allowed, only to cellular
17 telephone service companies who keep their regular books of account on an accrual basis, for
18 credit losses actually sustained by a taxpayer as a result of cellular telephone service business.
19 ~~((which shall be phased in as follows: twenty (20) percent of the credit losses occurring in 1995;~~
20 ~~forty (40) percent of the credit losses occurring in 1996; sixty (60) percent of the credit losses~~
21 ~~occurring in 1997; and eighty (80) percent of the credit losses occurring in 1998; and a complete~~
22 ~~deduction for the credit losses occurring in 1999 and thereafter.))~~

23
24
25 **SECTION 21.** Effective January 1, 2002, Section 5.48.260 of the Seattle Municipal Code
26 is amended as follows:

1 **5.48.260 Allocation of revenues – Cellular telephone service.**

2 A. ~~((Service address.))~~ In determining the total gross income from telephone business in the
3 City for purposes of Section 5.48.050A, there shall be included all gross income from cellular
4 telephone service (including roaming charges incurred by Seattle customers outside this state)
5 provided to customers whose “place of primary use” ~~((principal service address))~~ is in the City,
6 regardless of the location of the facilities used to provide the service. The customer’s
7 “((principal service address))place of primary use” is, with respect to each telephone: (a) the
8 customer’s ~~((plant, store, office, or other facility where the telephone is normally assigned for use~~
9 ~~in conjunction with the customer’s business activity;))~~ address; or (b) the customer’s place of
10 residence if the telephone is for personal use, and in both cases must be located within the
11 licensed service area of the home service provider. Roaming charges and cellular telephone
12 charges to customers whose principle service address is outside Seattle will not be taxable even
13 though those mobile services are provided within Seattle.

14 B. There is a rebuttable presumption that the ~~((principal service))~~ “place of primary use”
15 address shown on the cellular telephone service company’s records is accurate. If the cellular
16 telephone service company knows or should have known that a customer’s ~~((principal~~
17 ~~service))~~place of primary use address for a telephone is within the City then the gross revenue
18 from cellular telephone service provided to that customer with respect to that telephone is to be
19 included in the company’s gross income.

20 ~~((C. Non Washington roaming phones. In determining the total gross income from telephone~~
21 ~~business in the City for purposes of Section 5.48.050A, there shall be included all gross income~~
22 ~~from cellular telephone services rendered to customers using non Washington telephones (which~~
23 ~~means cellular telephones with principal service addresses outside the state) through the use of~~
24 ~~switching facilities located in the City. In the event technological advances result in a cellular~~
25 ~~telephone service company’s accounting system accurately assigning revenue from such a~~
26 ~~customer’s call to the location of the originating cell site rather than to the location of the main~~
27 ~~cellular switching office that switched the call, and the company has elected to report, to all~~
28 ~~taxing jurisdictions throughout Washington State, its revenues from non Washington telephones~~
~~according to the location of the originating cell site, then that company’s gross revenue for~~

1 ~~purposes of Section 5.48.050A shall, instead of the preceding sentence, include all gross income~~
2 ~~from services rendered to customers using non-Washington telephones derived from calls~~
3 ~~originating in cell sites within the City.~~

4 ~~D. Dispute resolution. If there is a dispute between or among the City and another city or~~
5 ~~cities as to the principal service address for a customer's cellular telephone service, or any other~~
6 ~~matter concerning allocation of revenues, and the dispute is not resolved by negotiation among~~
7 ~~the parties, then the dispute shall be resolved by the City and the other city or cities through the~~
8 ~~Association of Washington Cities. Once taxes on the disputed revenues have been paid to one~~
9 ~~(1) of the contesting cities, the cellular telephone service company shall have no further liability~~
10 ~~with respect to additional taxes, penalties, or interest on the disputed revenues so long as it~~
11 ~~promptly changes its billing records for future revenues to comport with the settlement facilitated~~
12 ~~by the Association of Washington Cities.))~~

13 **SECTION 22.** Effective January 1, 2002, a new Section 5.52.005 is added to the Seattle
14 Municipal Code as follows:

15 **5.52.005 Administrative Provisions.**

16 All of the provisions contained in SMC 5.55 shall have full force and application with respect
17 to taxes imposed under the provisions of this chapter except as expressly stated to the contrary
18 herein.

19 **SECTION 23.** Effective January 1, 2002, Section 5.52.010 of the Seattle Municipal Code is
20 amended as follows:

21 **5.52.010 Definitions.**

22 The definitions contained in SMC 5.30 shall be fully applicable to the provisions of this
23 chapter except as expressly stated to the contrary herein or defined otherwise in RCW Chapter
24 9.46.
25



1 ~~((Words and terms used in this chapter shall have the same meaning as each has under RCW~~
2 ~~Chapter 9.46, as now existing or hereafter amended, unless otherwise specifically provided in~~
3 ~~this chapter, or when the context in which they are used in this chapter clearly indicates that they~~
4 ~~be given some other meaning.~~

5 ~~A. "Bona fide charitable organization" means an organization that meets all of the requirements~~
6 ~~of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated~~
7 ~~primarily to provide charitable services as defined by WAC 230-02-160.~~

8 ~~B. "Bona fide nonprofit organization" means an organization that meets all of the requirements~~
9 ~~of RCW 9.46.0209.~~

10 ~~C. "Department" means the Department of Finance of The City of Seattle, or its functional~~
11 ~~successor.~~

12 ~~D. "Director" means the Director of Finance of The City of Seattle, or his or her functional~~
13 ~~successor.~~

14 ~~E. "Gross gambling receipts" means the monetary value that would be due to any operator of~~
15 ~~a gambling activity for any chance taken, other participation fees, any rental or lease fees for~~
16 ~~amusement games received by a commercial amusement game operation, as evidenced by~~
17 ~~required records. The value shall be stated in U.S. currency, before any deductions for prizes or~~
18 ~~any other expenses. In the absence of records, gross gambling receipts shall be the maximum~~
19 ~~that would be due to an operator from that particular activity if operated at maximum capacity.~~

20 ~~F. "Net gambling receipts" means all gross gambling receipts from any gambling activity, less~~
21 ~~the monetary value or, in the case of merchandise, the actual cost, of any prizes that were~~
22 ~~awarded.~~

1 ~~G. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm,~~
2 ~~partnership(s), joint venture, joint stock company, corporation, association, society, limited~~
3 ~~liability corporation, or any group of individuals acting as a unit, whether mutual, cooperative,~~
4 ~~fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof,~~
5 ~~provided a valid tax or fee may be levied upon or collected therefrom under the provisions of this~~
6 ~~chapter. The term includes all bona fide charitable organizations and bona fide nonprofit~~
7 ~~organizations.~~

8
9 ~~H. "Within the City" or "in the City" includes but is not limited to all federal areas lying~~
10 ~~within the boundaries of The City of Seattle.))~~

11
12 **SECTION 24.** Effective January 1, 2002, Subsection 3.02.125 A of the Seattle
13 Municipal Code is amended as follows:

14 **SMC 3.02.125 Hearing Examiner filing fees.**

15
16 A. Filing fees for hearings before the City Hearing Examiner are as follows:

17 Basis for Hearing	18 Fee
19 Admission Tax, Revocation of 20 Exemption (Sec. 5.40.085)	No fee
21 <u>Admission Tax</u>	
22 <u>Deficiency (Ch. 5.40)</u>	\$ 50
23 Ballard Avenue Landmark District 24 (Ch. 25.16)	\$ 50
25 <u>Business License ((and Occupation)) Tax</u>	
26 <u>Deficiency (Ch. 5.45((4)))</u>	50
27	
28	



1		
2	Cable Television Ordinance	
3	(Ch. 21.60)	No fee
4	Columbia City Landmark District	
5	(Ch. 25.20)	50
6		
7	Design Decision in Multiple	
8	Residence -- Mixed Density Zone	
9	(Ch. 24.38)	50
10		
11	Fair Employment Practices	
12	Ordinance (Ch. 14.04)	No fee
13	Floating Home Moorages	
14	(Ch. 7.20)	50
15	/petitioner; maximum fee	150
16		
17	<u>Gambling Tax</u>	
18	Deficiency (Ch. 5.52)	50
19		
20	Grading Ordinance (Title 22, Subtitle VIII)	50
21		
22	Harvard/Belmont Landmark District (Ch. 25.22)	50
23		
24	Housing Code (Ch. 22.206)	50
25		
26	Land Use Code Enforcement (Ch. 23.90)	50
27		
28		



1	Landmark Preservation Controls and	
2	Incentives (Sec. 25.12.530)	No fee
3	Landmarks Preservation (Sec.	
4	25.12.740 and Sec. 25.12.835)	50
5		
6	License Code (Title 6, Subtitle I)	50
7		
8	Master Use Permit (Ch. 23.76)	50
9		
10	Noise Ordinance (Ch. 25.08)	50
11		
12	Open Housing Ordinance	
13	(Ch. 14.08)	No fee
14		
15	Pike Place Market Historical	
16	District (Ch. 25.24)	50
17		
18	Pioneer Square Minimum	
19	Maintenance Ordinance	
20	(Ch. 25.28, Subchapter II)	50
21		
22	Planned Unit Development	
23	(Ch. 24.66)	50
24		
25	Plumbing Code (Ch. 20.16, Uniform	
26	Plumbing Code, Ord. 116594)	50
27		
28		



1		
2	Property Tax Exemption, Cancellation	
3	of Exemption (Ch. 5.72)	50
4		
5	Radiofrequency Radiation Ordinance (Ch. 25.10)	50
6		
7	Relocation Assistance (Ch. 20.84)	No fee
8		
9	Seizure of Property -- Controlled	
10	Substances (RCW 69.50.505(e))	No fee
11		
12	Special Review Districts (Ch. 23.66)	50
13		
14	State Environmental Policy Act (SEPA)	
15	(when not a Master Use Permit component)	
16	(Ch. 25.04)	50
17	Utility tax (Ch. 5.48)	50
18		
19	Zoning Map Amendments (Rezoning)	
20	(Ch. 23.34)	No fee
21		
22	Zoning Rulings and Interpretations	
23	(Ch. 23.88)	50
24		



1 for the purpose of resale. This excluded revenue shall be recorded and taxed under SMC Chapter
2 5.45((4)).

3 * * *

4
5 **SECTION 28.** Effective January 1, 2002, Section 5.48.060 of the Seattle Municipal
6 Code is amended as follows:

7
8 **SMC 5.48.060 City of Seattle subject to tax.**

9 Subsections ~~((s C, D, and F of Section))~~ 5.48.050 C, D, and F, Section 5.48.055, and
10 Sections 5.55.050 C, 5.55.090 A and B, and 5.55.110 ((5.48.140)) shall, so far as permitted by
11 law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required
12 to conform to the other provisions of this chapter.
13

14 **SECTION 29.** Effective January 1, 2002, Subsection 6.20.030 A of the Seattle
15 Municipal Code is amended as follows:

16 **SMC 6.20.030 Application; Coordination; Records.**

17
18 A. Application. A promoter ~~((promoter))~~ or organizer of a trade show shall apply to the
19 Director of Finance ~~((Licenses and Consumer Affairs))~~ for a trade show license at least one (1)
20 day before the trade show opens. The application shall identify the trade show, its location and
21 dates, and contain or be supplemented by a listing of the name, address, and business telephone
22 number of each participant, and identify any "used goods dealer" as defined in Section 6.288.010
23
24 H. A participant must be listed in order to be eligible for the exclusion in Sections 6.20.050
25 ~~((6.02.050))~~ and 5.55.030 D((5.44.130 D)), and identified as a "used goods dealer" for
26 registration under Section 6.20.050 C.
27
28

1 his or her business activities in Seattle to a trade show ancillary to a convention, shall be exempt
2 from paying the minimum business license fee required by Section 5.55.030 A ~~((5.44.300 A))~~ on
3 account of his or her business activities at the trade show, or in the event that the participant
4 already has a City business license, from securing a license for a separate business location at the
5 trade show under Section 5.55.030 B ~~((5.44.300 B))~~, each for the duration of the trade show
6 license.
7

8 B. A participant at a trade show remains subject to the other provisions of Chapters
9 5.45 ~~((4))~~ or 5.48, as the case may be, ~~((and if))~~ If the gross proceeds of sales, value of products,
10 or gross income of the participant on account of his or her business activities at the trade show or
11 elsewhere in Seattle is equal to or exceeds the taxable threshold pursuant to SMC 5.55.040 D
12 ~~((Fifty Thousand Dollars (\$50,000.00)))~~ in the tax year, the participant shall file and pay the
13 City's business license ~~((or utility))~~ tax as contemplated by Chapter 5.45 ~~((4))~~. ~~((or 5.48,~~
14 ~~respectively.))~~
15

16 * * *

17
18 **SECTION 32.** Effective January 1, 2002, Subsection 6.288.100 B of the Seattle
19 Municipal Code is amended as follows:

20 **SMC 6.288.100 Retention of property.**

21 * * *

22
23 B. Scrap metal obtained from a scrap metal hauler or other seller enumerated in Section
24 6.288.070 B 1f (i) and (ii) shall be retained for a minimum of five (5) days, excluding Sundays,
25 and national holidays; provided, that scrap metal purchased from another used goods licensee
26 other than a scrap metal hauler, or a manufacturer, as defined by Chapter 5.30 ~~((Section~~
27
28

1 ~~5.44.020~~) of the Seattle Municipal Code, or a utility designated by Section 5.48.050 of the
2 Seattle Municipal Code, or a government entity shall not be subject to a retention period.

3 **SECTION 33.** Effective January 1, 2002, Section 3 of Ordinance 118145, appearing as
4 an Editor's Note after Section 3.14.750 of the Seattle Municipal Code, is amended as follows:

5 Section 1. The Director of NPO is authorized to enter into agreements with neighborhood
6 planning groups consistent with the form attached hereto, for the development of neighborhood
7 plans consistent with the City's Comprehensive Plan.

8 Section 2. The agreements authorized in Section 1 shall be exempt from the provisions of
9 SMC Ch. 3.114.

10 Section 3. Any neighborhood planning group entering into an agreement authorized in
11 Section 1 shall be exempt from the provisions of SMC 5.55.030 and SMC 5.45.060 ((SMC
12 ~~5.44.040 and SMC 5.44.130~~)), so long as the activities of the group receiving the contracted-for
13 funds are restricted solely to development of neighborhood plans.

14 **SECTION 34. Severability.** If any part, provision or section of this ordinance is held to
15 be void or unconstitutional, all other parts, provisions, and sections of this ordinance not
16 expressly so held to be void or unconstitutional shall continue in full force and effect.
17
18
19
20
21
22
23
24
25
26
27
28

STATE OF WASHINGTON – KING COUNTY

--SS.

139518
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120668 ORD. IN FULL

was published on

12/28/2001

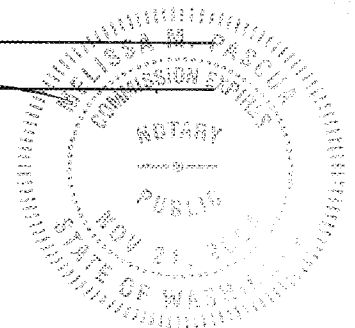
J. Stedman

Subscribed and sworn to before me on

12/28/2001

Mel Mpasca
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



ORDINANCE FILES 120668

SHEETS 1

oversized

for 35 mm filming

removed from file here

ORDINANCE FILES 120668

SHEETS 1 oversized

for 35 mm filming

removed from file here

