

Ordinance No. 123596

Council Bill No. 117143

AN ORDINANCE relating to wage theft; amending Seattle Municipal Code sections 5.55.230 and 12A.08.060; clarifying the definition of theft as it relates to theft of wages; providing a list of circumstances that may be considered in determining whether a person intends to commit wage theft; clarifying the City's jurisdiction in such cases; and allowing the City to refuse to issue, revoke, or refuse to renew business licenses from employers found guilty of wage theft.

Related Legislation File: \_\_\_\_\_

Date Introduced and Referred: <b>4.4.11</b>	To: (committee): <b>Public Safety + Education</b>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <b>April 25, 2011</b>	Date Presented to Mayor: <b>April 27, 2011</b>
Date Signed by Mayor: <b>5.5.11</b>	Date Returned to City Clerk: <b>5.5.11</b>
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text _____	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

### The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by:



#### Committee Action:

Date	Recommendation	
4/6/11	MSP Version # 2	3-0-0 TB, SB, SC <i>Sally Bagshaw</i>
4/20/11	MSP to Amend Version # 2	3-0-0 TB, SB, SC
	MSP to approve Amended Version # 2	3-0-0 TB, SB, SC

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

#### Full Council Action:

Date	Decision	Vote
4/25/11	PASSED <del>XXXXXXXXXX</del>	9-0

*Law Department*

ORDINANCE 123596

1  
2 AN ORDINANCE relating to wage theft; amending Seattle Municipal Code sections 5.55.230 and  
3 12A.08.060; clarifying the definition of theft as it relates to theft of wages; providing a list of  
4 circumstances that may be considered in determining whether a person intends to commit wage  
5 theft; clarifying the City's jurisdiction in such cases; and allowing the City to refuse to issue,  
6 revoke, or refuse to renew business licenses from employers found guilty of wage theft.

7 WHEREAS, research shows that the theft of wages by employers with unscrupulous business practices  
8 is a significant problem around the country, with one 2008 study finding that more than two-  
9 thirds of 4,387 workers surveyed in low-wage industries experienced at least one pay-related  
10 violation in the previous work week amounting to an average loss of 15 percent of weekly  
11 earnings; and

12 WHEREAS, the Washington State Department of Labor and Industries issued 615 sustained civil claims  
13 against such employers to collections in fiscal year 2009, but frequently lacks the resources to  
14 collect upon these claims; and

15 WHEREAS, some predatory business owners apparently consider repeated civil claims from the  
16 Department of Labor and Industries a simple cost of doing business; and

17 WHEREAS, encouraging greater compliance with wage laws benefits all workers by ensuring a level  
18 playing field in the labor market; and

19 WHEREAS, encouraging greater compliance with wage laws benefits the businesses that already  
20 comply with these laws; and

21 WHEREAS, those individuals affected by wage theft are often among the most vulnerable in our city  
22 and without access to sufficient resources and time with which to appeal for their unpaid wages;  
23 and

24 WHEREAS, the City of Seattle finds it necessary and appropriate to create a stronger disincentive for  
employers to violate wage and hour laws; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections A and B of Section 5.55.230 of the Seattle Municipal Code are amended  
as follows:

**5.55.230 Refusal to issue, revocation ~~Revocation~~ of, or refusal to renew business license.**



1 A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or  
2 refuse to renew any business license or amusement device license issued under the provisions of this  
3 chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by  
4 certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what  
5 grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any  
6 license issued under this chapter on one or more of the following grounds:

- 7 1. The license was procured by fraud or false representation of fact.
- 8 2. The licensee has failed to comply with any provisions of this chapter.
- 9 3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40,  
10 5.45, 5.46, 5.48 or 5.52.
- 11 4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
- 12 5. The property at which the business is located has been determined by a court to be a chronic  
13 nuisance property as provided in SMC Chapter 10.09.
- 14 6. The applicant or licensee has been convicted of theft under Section 12A.08.060A4 within the  
15 last ten years.
- 16 7. The applicant or licensee is a person subject within the last ten years to a court order entering  
17 final judgment for violations of RCW 49.46, 49.48 or 49.52, and the judgment was not satisfied within  
18 30 days of the later of either: (1) the expiration of the time for filing an appeal from the final judgment  
19 order under the court rules in effect at the time of the final judgment order, or (2) if a timely appeal is  
20 made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial  
21 affirmation of the findings of violations of RCW 49.46, 49.48 or 49.52.
- 22 8. The applicant or licensee is a person subject within the last ten years to a final and binding  
23 citation and notice of assessment from the Washington State Department of Labor and Industries for  
24

violations of RCW 49.46, 49.48 or 49.52, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee or any person (as defined in SMC Section 5.30.040.F) in which the licensee is a principal shall not again be licensed during such period.

B. Within 30 days from the date that the notice of refusal to issue, revocation or refusal to renew notice was mailed to the applicant or licensee, the applicant or licensee may appeal such refusal to issue, revocation or refusal to renew by filing a written notice of appeal (“petition”) setting forth the grounds therefor with the Office of the Hearing Examiner. The applicant or licensee must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code). The Hearing Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after making appropriate findings of fact and conclusions of law, affirm, modify, or overrule the refusal to issue, revocation or refusal to renew, and issue or reinstate the license. The Hearing Examiner may impose any terms upon the issuance or continuance of the license that he or she may deem advisable. No refusal to issue, revocation of, or refusal to renew a license issued pursuant to the provisions of this chapter shall take effect until 30 days after the mailing of the notice thereof by the Director, and if appeal is taken as herein prescribed, the refusal to issue, revocation or refusal to renew shall be stayed pending final action by the Hearing Examiner. All licenses that are revoked or refused to be renewed by the Director shall be surrendered to the City on the effective date of such revocation or refusal to renew. No business license shall be renewed and no new license shall be issued to the licensee or to any person (as defined by SMC



1 Subsection 5.30.040F) in which the licensee is a principal for a period of one year where the license has  
2 been revoked or not renewed by a decision of the Director pursuant to this Section 5.55.230. The  
3 decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of  
4 the decision of the Hearing Examiner in the Superior Court of Washington in and for King County  
5 within fourteen (14) days from the date of the decision.

6 \* \* \*

7 Section 2. Section 12A.08.060 of the Seattle Municipal Code is amended as follows:

8 **12A.08.060 Theft.**

9 A. A person is guilty of theft if:

- 10 1. He or she steals the property of another; or  
11 2. By deception or by other means to avoid payment for services, he or she intentionally obtains  
12 services which he or she knows to be available only for compensation; or  
13 3. Having control over the disposition of services of others to which he or she is not entitled, he  
14 or she knowingly diverts those services to his or her own benefit or to the benefit of another not entitled  
15 thereto; or  
16 4. He or she knowingly secures the performance of services by agreeing to provide  
17 compensation and, after the services are rendered, fails to make full and complete payment, with intent  
18 to avoid payment for services.

19 B. For purposes of subsection A4 of this Section 12A.08.060, among the circumstances that may  
20 be considered in determining whether the person intends to avoid payment for services are that he or  
21 she:

- 22 1. agrees to pay the person providing the services immediately upon completion of the services,  
23 but fails to do so; or  
24

2. fails to pay the person at the time of an agreed-upon payday or at the end of the regular payment interval required by state and federal statutes; or

3. agrees to pay the person providing the services at a specified time and place after completion of the services, but fails to appear at that time or place; or

4. agrees to pay the person providing the services a specified amount upon completion of the services, but pays or offers a lesser amount; or

5. pays the person providing the services with a check that is not honored by the bank or other depository upon which it is drawn because of insufficient funds or a stop-payment order; or

6. in retaliation for asserting any claim to wages, communicates to the person providing the services, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that the person is not lawfully in the United States, or threatens, intimidates, or takes any other adverse action against the person; or

7. fails to respond within fifteen days to any written communication that makes a demand for unpaid wages from the person providing the services or any other person or entity writing on that person's behalf.

Proof of any of these circumstances is not required for theft under subsection A4 of this Section 12A.08.060 nor do any of these circumstances conclusively prove theft under subsection A4 of this Section 12A.08.060.

C. In any prosecution under this section-Section 12A.08.060, it is an affirmative defense that the property or services were openly obtained under a claim of title made in good faith, even though the claim be untenable.

D. Theft involving services may be deemed to have been committed either at the place where the agreement was made regarding the services or at the place where the services were performed.



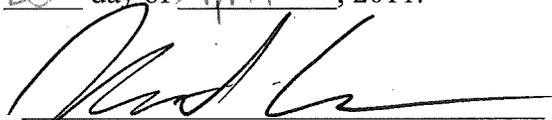
E. Within 14 days after the conviction of a person of theft under subsection A4 of this Section

1 12A.08.060, the clerk of the court shall forward to the Director of the Department of Finance and  
2 Administrative Services a docket of the case record.

3 Section 3. If any provision of this ordinance or its application to any person or circumstance is  
4 held invalid, the remainder of the ordinance or the application of the provision to other persons or  
5 circumstances is not affected.

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

9 Passed by the City Council the 25<sup>th</sup> day of April, 2011, and signed by me in open  
10 session in authentication of its passage this 25<sup>th</sup> day of April, 2011.

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12   
13 President \_\_\_\_\_ of the City Council

14 Approved by me this 5<sup>th</sup> day of May, 2011.

15   
16 Mike McGinn, Mayor

17 Filed by me this 5<sup>th</sup> day of May, 2011.

18   
19 City Clerk





**Legislative Department  
Office of City Clerk  
Memorandum**

**Date:** May 11, 2011  
**To:** Councilmembers  
**From:** Laurel Humphrey, for Monica Martinez Simmons, City Clerk   
**Subject:** Typographical Correction to Section 2 of Ordinance

Ordinance 123596, passed by the City Council on April 25, 2011, and approved by Mayor McGinn on May 5, 2011, contained a typographical error on line 2 of page 6. On May 5, 2011, City Clerk Monica Simmons hand-corrected this error by striking the word "Financial" and writing the word "Finance" in reference to the Department of Finance and Administrative Services.

**Cc:** File - Ordinance 123596  
Jeff Slayton

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Legislative	Nate Van Duzer/206-684-8806	N/A

**Legislation Title:** AN ORDINANCE relating to wage theft; amending Seattle Municipal Code sections 5.55.230 and 12A.08.060; clarifying the definition of theft as it relates to theft of wages; providing a list of circumstances that may be considered in determining whether a person intends to commit wage theft; clarifying the City's jurisdiction in such cases; and allowing the City to refuse to issue, revoke, or refuse to renew business licenses from employers found guilty of wage theft.

**Summary of the Legislation:**

The ordinance would add the following elements to the Seattle Municipal Code:

- Under SMC 12A.08.060 (Theft), a new subsection (A4) clarifies that knowingly securing services for payment and intentionally avoiding full payment for these services is an element of the crime of theft, a gross misdemeanor.
- A list of specific circumstances is added to the SMC that may be considered in determining whether a defendant intended to commit wage theft. Similar lists of circumstances are used in the SMC sections for prostitution loitering (12A.10.010) and drug-traffic loitering (12A.20.050).
- An additional clarification is added to the SMC so that it is clear that wage theft can occur either at the place where the agreement for service was made or at the location where the services are performed, a change necessary to make the City law applicable in those cases where an offer of employment is made and accepted inside the city limits of Seattle yet the work is performed outside the City, or vice versa.
- Under SMC 5.55.230 (Business licenses), the City's Director of Finance and Administrative Services would be empowered to refuse to issue, revoke or withhold a Seattle business license to individuals who
  - are convicted of wage theft under new section 12A.08.060A4, or
  - are subject to a final and binding citation and notice of assessment for wage violations from the State Department of Labor and Industries AND have not satisfied the judgment within 30 days, or
  - have been assessed civil liability by a court under Washington state wage laws in RCW 49.46, 49.48 or 49.52 AND have not satisfied the judgment within 30 days.



**Background:**

In Washington State, claims of wage theft are handled under the civil processes of the State Department of Labor and Industries. While many citations are issued for violations of state wage laws and regulations and 615 sustained claims sent to collections in fiscal year 2009, the department lacks sufficient resources to actively collect lost wages on behalf of victimized workers. If employers do not pay voluntarily, they often never pay. Improvements to state law and processes were adopted in 2010, but these changes, while certainly appropriate, have not changed the reality for many of the workers who are taken advantage of by their employer. The problem of wage theft is significant enough to warrant enhanced City efforts to recover wages for these workers and to deter other employers from committing wage theft.

Please check one of the following:

**This legislation does not have any financial implications.**  
(Stop here and delete the remainder of this document prior to saving and printing.)

It is expected that any criminal enforcement and prosecutions under the amended law would be handled within existing resources.

**This legislation has financial implications.** (Please complete all relevant sections that follow.)

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AN ORDINANCE relating to wage theft; amending Seattle Municipal Code sections 5.55.230 and 12A.08.060; clarifying the definition of theft as it relates to theft of wages; providing a list of circumstances that may be considered in determining whether a person intends to commit wage theft; clarifying the City's jurisdiction in such cases; and allowing the City to refuse to issue, revoke, or refuse to renew business licenses from employers found guilty of wage theft.

WHEREAS, research shows that the theft of wages by employers with unscrupulous business practices is a significant problem around the country, with one 2008 study finding that more than two-thirds of 4,387 workers surveyed in low-wage industries experienced at least one pay-related violation in the previous work week amounting to an average loss of 15 percent of weekly earnings; and

WHEREAS, the Washington State Department of Labor and Industries issued 615 sustained civil claims against such employers to collections in fiscal year 2009, but frequently lacks the resources to collect upon these claims; and

WHEREAS, some predatory business owners apparently consider repeated civil claims from the Department of Labor and Industries a simple cost of doing business; and

WHEREAS, encouraging greater compliance with wage laws benefits all workers by ensuring a level playing field in the labor market; and

WHEREAS, encouraging greater compliance with wage laws benefits the businesses that already comply with these laws; and

WHEREAS, those individuals affected by wage theft are often among the most vulnerable in our city and without access to sufficient resources and time with which to appeal for their unpaid wages; and

WHEREAS, the City of Seattle finds it necessary and appropriate to create a stronger disincentive for employers to violate wage and hour laws; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections A and B of Section 5.55.230 of the Seattle Municipal Code are amended as follows:

**5.55.230 Refusal to issue, revocation ~~Revocation of~~, or refusal to renew business license.**

THIS VERSION IS NOT ADOPTED



1 A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or  
2 refuse to renew any business license or amusement device license issued under the provisions of this  
3 chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by  
4 certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what  
5 grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any  
6 license issued under this chapter on one or more of the following grounds:

- 7 1. The license was procured by fraud or false representation of fact.
- 8 2. The licensee has failed to comply with any provisions of this chapter.
- 9 3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40,  
10 5.45, 5.46, 5.48 or 5.52.
- 11 4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
- 12 5. The property at which the business is located has been determined by a court to be a chronic  
13 nuisance property as provided in SMC Chapter 10.09.
- 14 6. The applicant or licensee has been convicted of theft under Section 12A.08.060A4 within the  
15 last ten years.
- 16 7. The applicant or licensee is a person subject within the last ten years to a final and binding  
17 citation and notice of assessment or court decision of liability for violations of RCW 49.46, 49.48 or  
18 49.52, and the decision or judgment was not satisfied within 30 days of its issuance.

19 The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee  
20 or any person (as defined in SMC Section 5.30.040.F) in which the licensee is a principal shall not again  
21 be licensed during such period.

22 B. Within 30 days from the date that the notice of refusal to issue, revocation or refusal to renew  
23 notice was mailed to the applicant or licensee, the applicant or licensee may appeal such refusal to issue.  
24

THIS VERSION IS NOT ADOPTED



1 revocation or refusal to renew by filing a written notice of appeal (“petition”) setting forth the grounds  
2 therefor with the Office of the Hearing Examiner. The applicant or licensee must provide a copy of the  
3 petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing  
4 Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested  
5 cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code). The Hearing  
6 Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of  
7 the hearing. After the hearing thereon the Hearing Examiner shall, after making appropriate findings of  
8 fact and conclusions of law, affirm, modify, or overrule the refusal to issue, revocation or refusal to  
9 renew, and issue or reinstate the license. The Hearing Examiner may impose any terms upon the  
10 issuance or continuance of the license that he or she may deem advisable. No refusal to issue,  
11 revocation of, or refusal to renew a license issued pursuant to the provisions of this chapter shall take  
12 effect until 30 days after the mailing of the notice thereof by the Director, and if appeal is taken as  
13 herein prescribed, the refusal to issue, revocation or refusal to renew shall be stayed pending final action  
14 by the Hearing Examiner. All licenses that are revoked or refused to be renewed by the Director shall be  
15 surrendered to the City on the effective date of such revocation or refusal to renew. No business license  
16 shall be renewed and no new license shall be issued to the licensee or to any person (as defined by SMC  
17 Subsection 5.30.040F) in which the licensee is a principal for a period of one year where the license has  
18 been revoked or not renewed by a decision of the Director pursuant to this Section 5.55.230. The  
19 decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review  
20 of the decision of the Hearing Examiner in the Superior Court of Washington in and for King County  
21 within fourteen (14) days from the date of the decision.

22 \* \* \*

23 Section 2. Section 12A.08.060 of the Seattle Municipal Code is amended as follows:  
24

THIS VERSION IS NOT ADOPTED



**12A.08.060 Theft.**

1 A. A person is guilty of theft if:

2 1. He or she steals the property of another; or

3 2. By deception or by other means to avoid payment for services, he or she intentionally obtains  
4 services which he or she knows to be available only for compensation; or

5 3. Having control over the disposition of services of others to which he or she is not entitled, he  
6 or she knowingly diverts those services to his or her own benefit or to the benefit of another not entitled  
7 thereto; or

8 4. He or she knowingly secures the performance of services by agreeing to provide  
9 compensation and, after the services are rendered, fails to make full and complete payment, with intent  
10 to avoid payment for services.

11 B. For purposes of subsection A4 of this Section 12A.08.060, among the circumstances that may  
12 be considered in determining whether the person intends to avoid payment for services are that he or  
13 she:

14 1. agrees to pay the person providing the services immediately upon completion of the services  
15 but fails to do so; or

16 2. fails to pay the person at the time of an agreed-upon payday or at the end of the regular  
17 payment interval required by state and federal statutes; or

18 3. agrees to pay the person providing the services at a specified time and place after completion  
19 of the services, but fails to appear at that time or place; or

20 4. agrees to pay the person providing the services a specified amount upon completion of the  
21 services, but pays or offers a lesser amount; or  
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THIS VERSION IS NOT ADOPTED

1 5. pays the person providing the services with a check that is not honored by the bank or other  
2 depository upon which it is drawn because of insufficient funds or a stop-payment order; or

3 6. in retaliation for asserting any claim to wages, communicates to the person providing the  
4 services, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee  
5 that the person is not lawfully in the United States, or threatens, intimidates, or takes any other adverse  
6 action against the person; or

7 7. fails to respond within fifteen days to any written communication that makes a demand for  
8 unpaid wages from the person providing the services or any other person or entity writing on that  
9 person's behalf.

10 Proof of any of these circumstances is not required for theft under subsection A4 of this Section  
11 12A.08.060 nor do any of these circumstances conclusively prove theft under subsection A4 of this  
12 Section 12A.08.060.

13 C. In any prosecution under this section-Section 12A.08.060, it is an affirmative defense that the  
14 property or services were openly obtained under a claim of title made in good faith, even though the  
15 claim be untenable.

16 D. Theft involving services may be deemed to have been committed either at the place where  
17 the agreement was made regarding the services or at the place where the services were performed.

18 E. Within 14 days after the conviction of a person of theft under subsection A4 of this Section  
19 12A.08.060, the clerk of the court shall forward to the Director of the Department of Financial and  
20 Administrative Services a docket of the case record.

21 Section 3. If any provision of this ordinance or its application to any person or circumstance is  
22 held invalid, the remainder of the ordinance or the application of the provision to other persons or  
23 circumstances is not affected.  
24

THIS VERSION IS NOT ADOPTED



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

4 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2011, and signed by me in open  
5 session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2011.

6 \_\_\_\_\_  
7 President \_\_\_\_\_ of the City Council

8 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2011.

9 \_\_\_\_\_  
10 Mike McGinn, Mayor

11 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2011.

12 \_\_\_\_\_  
13 City Clerk

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8 WHEREAS, research shows that the theft of wages by employers with unscrupulous business practices  
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10 thirds of 4,387 workers surveyed experienced at least one pay-related violation in the previous  
11 work week amounting to an average loss of 15 percent of weekly earnings; and

12 WHEREAS, the Washington State Department of Labor and Industries issued 615 sustained civil claims  
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14 collect upon these claims; and

15 WHEREAS, some predatory business owners apparently consider repeated civil claims from the  
16 Department of Labor and Industries a simple cost of doing business; and

17 WHEREAS, encouraging greater compliance with wage laws benefits all workers by ensuring a level  
18 playing field in the labor market; and

19 WHEREAS, encouraging greater compliance with wage laws benefits the businesses that already  
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21 WHEREAS, those individuals affected by wage theft are often among the most vulnerable in our city  
22 and without access to sufficient resources and time with which to appeal for their unpaid wages;  
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24 WHEREAS, the City of Seattle finds it necessary and appropriate to create a stronger disincentive for  
employers to violate wage and hour laws; NOW, THEREFORE,

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1 A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or  
2 refuse to renew any business license or amusement device license issued under the provisions of this  
3 chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by  
4 certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what  
5 grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any  
6 license issued under this chapter on one or more of the following grounds:

- 7 1. The license was procured by fraud or false representation of fact.
- 8 2. The licensee has failed to comply with any provisions of this chapter.
- 9 3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40,  
10 5.45, 5.46, 5.48 or 5.52.
- 11 4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
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- 14 6. The licensee has been convicted of theft under Section 12A.08.060A4 within the last ten  
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- 16 7. The licensee is a person subject within the last ten years to a final and binding citation and  
17 notice of assessment or court decision of liability for violations of RCW 49.46, 49.48 or 49.52, and the  
18 decision or judgment was not satisfied within 30 days of its issuance.

19 The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee  
20 or any person (as defined in SMC Section 5.30.040.F) in which the licensee is a principal shall not again  
21 be licensed during such period.

22 B. Within 30 days from the date that the notice of refusal to issue, revocation or refusal to renew  
23 notice was mailed to the applicant or licensee, the applicant or licensee may appeal such refusal to issue,  
24

1 revocation or refusal to renew by filing a written notice of appeal (“petition”) setting forth the grounds  
2 therefor with the Office of the Hearing Examiner. The applicant or licensee must provide a copy of the  
3 petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing  
4 Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested  
5 cases in the Seattle Administrative Code (Chapter 3.02 of the Seattle Municipal Code). The Hearing  
6 Examiner shall set a date for hearing said appeal and notify the licensee by mail of the time and place of  
7 the hearing. After the hearing thereon the Hearing Examiner shall, after making appropriate findings of  
8 fact and conclusions of law, affirm, modify, or overrule the refusal to issue, revocation or refusal to  
9 renew, and issue or reinstate the license. The Hearing Examiner may impose any terms upon the  
10 issuance or continuance of the license that he or she may deem advisable. No refusal to issue,  
11 revocation of, or refusal to renew a license issued pursuant to the provisions of this chapter shall take  
12 effect until 30 days after the mailing of the notice thereof by the Director, and if appeal is taken as  
13 herein prescribed, the refusal to issue, revocation or refusal to renew shall be stayed pending final action  
14 by the Hearing Examiner. All licenses that are revoked or refused to be renewed by the Director shall be  
15 surrendered to the City on the effective date of such revocation or refusal to renew. No business license  
16 shall be renewed and no new license shall be issued to the licensee or to any person (as defined by SMC  
17 Subsection 5.30.040F) in which the licensee is a principal for a period of one year where the license has  
18 been revoked or not renewed by a decision of the Director pursuant to this Section. The decision of the  
19 Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision of  
20 the Hearing Examiner in the Superior Court of Washington in and for King County within fourteen (14)  
21 days from the date of the decision.

22 \* \* \*

23 Section 2. Section 12A.08.060 of the Seattle Municipal Code is amended as follows:  
24

THIS VERSION IS NOT ADOPTED



**12A.08.060 Theft.**

1 A. A person is guilty of theft if:

2 1. He or she steals the property of another; or

3 2. By deception or by other means to avoid payment for services, he or she intentionally obtains  
4 services which he or she knows to be available only for compensation; or

5 3. Having control over the disposition of services of others to which he or she is not entitled, he  
6 or she knowingly diverts those services to his or her own benefit or to the benefit of another not entitled  
7 thereto; or

8 4. He or she knowingly secures the performance of services by agreeing to provide  
9 compensation and, after the services are rendered, fails to make full and complete payment, with intent  
10 to avoid payment for services.

11 B. For purposes of subsection A4 of this section, among the circumstances that may be  
12 considered in determining whether the person intends to avoid payment for services are that he or she:

13 1. agrees to pay the person providing the services immediately upon completion of the services,  
14 but fails to do so; or

15 2. fails to pay the person at the time of an agreed-upon payday or at the end of the regular  
16 payment interval required by state and federal statutes; or

17 3. agrees to pay the person providing the services at a specified time and place after completion  
18 of the services, but fails to appear at that time or place; or

19 4. agrees to pay the person providing the services a specified amount upon completion of the  
20 services, but pays or offers a lesser amount; or

21 5. pays the person providing the services with a check that is not honored by the bank or other  
22 depository upon which it is drawn because of insufficient funds or a stop-payment order; or  
23  
24

THIS VERSION IS NOT ADOPTED



1 6. in retaliation for asserting any claim to wages, communicates to the person providing the  
2 services, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee  
3 that the person is not lawfully in the United States, or threatens, intimidates, or takes any other adverse  
4 action against the person; or

5 7. fails to respond within fifteen days to any written communication that makes a demand for  
6 unpaid wages from the person providing the services or any other person or entity writing on that  
7 person's behalf.

8 Proof of any of these circumstances is not required for theft under subsection A4 of this section  
9 nor do any of these circumstances conclusively prove theft under subsection A4 of this section.

10 C. In any prosecution under this section, it is an affirmative defense that the property or services  
11 were openly obtained under a claim of title made in good faith, even though the claim be untenable.

12 D. Theft involving services may be deemed to have been committed either at the place where  
13 the agreement was made regarding the services or at the place where the services were performed.

14 E. Within 14 days after the conviction of a person of theft under subsection A4 of this section,  
15 the clerk of the court shall forward to the Director of the Department of Financial and Administrative  
16 Services a docket of the case record.

17 Section 3. If any provision of this ordinance or its application to any person or circumstance is  
18 held invalid, the remainder of the ordinance or the application of the provision to other persons or  
19 circumstances is not affected.

20 Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its  
21 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
22 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
23  
24

THIS VERSION IS NOT ADOPTED



1 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2011, and signed by me in open  
2 session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2011.

3 \_\_\_\_\_  
4 President \_\_\_\_\_ of the City Council

5 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2011.

6 \_\_\_\_\_  
7 Mike McGinn, Mayor

8 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2011.

9 \_\_\_\_\_  
10 City Clerk

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**THIS VERSION IS NOT ADOPTED**



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STATE OF WASHINGTON – KING COUNTY

--SS.

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271039  
CITY OF SEATTLE, CLERKS OFFICE

No. 123592,593,594,595,596

**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 12<sup>th</sup> 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:TITLE ONLY ORDINANCE

was published on

05/12/11

The amount of the fee charged for the foregoing publication is the sum of \$ 83.81, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

05/12/11

Notary public for the State of Washington,  
residing in Seattle

## State of Washington, King County

### City of Seattle

#### Title Only Ordinances

The full text of the following legislation, passed by the City Council on April 25, 2011, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

#### ORDINANCE NO. 123592

AN ORDINANCE relating to the Finance and Administrative Services Department; granting an easement to Puget Sound Energy for a nonexclusive easement over, under, along, and across a portion of the property known as the Charles Street Campus located at 815 South Dearborn Street.

#### ORDINANCE NO. 123593

AN ORDINANCE relating to the Neighborhood Parks and Playgrounds subcategory of the 2008 Parks and Green Spaces Levy; accepting the recommendation of the 2008 Parks and Green Spaces Levy Oversight Committee relating to projects to convert wading pools to spray parks; amending the 2011 Adopted Budget and 2011-2016 Capital Improvement Program; and increasing appropriations in connection thereto; all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 123594

AN ORDINANCE relating to the Seattle Center; authorizing the Director of Seattle Center to execute a lease agreement with Center Art, LLC for the development, construction, and operation of a glass and gardens exhibition space for Chihuly glass, a retail shop and related uses, while also providing for improvements to public areas of Seattle Center; and ratifying and confirming certain acts.

#### ORDINANCE NO. 123595

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

#### ORDINANCE NO. 123596

AN ORDINANCE relating to wage theft; amending Seattle Municipal Code sections 5.55.230 and 12A.08.060; clarifying the definition of theft as it relates to theft of wages; providing a list of circumstances that may be considered in determining whether a person intends to commit wage theft; clarifying the City's jurisdiction in such cases; and allowing the City to refuse to issue, revoke, or refuse to renew business licenses from employers found guilty of wage theft.

Date of publication in the Seattle Daily Journal of Commerce, May 12, 2011.

5/12(271039)