



SEATTLE CITY COUNCIL

Legislative Summary

CB 118558

Record No.: CB 118558

Type: Ordinance (Ord)

Status: Passed

Version: 1

124902

In Control: City Clerk

File Created: 10/28/2015

Final Action: 12/01/2015

Title: AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Licata

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Full Council	11/09/2015	referred	Budget Committee			
	Action Text:		The Council Bill (CB) was referred. to the Budget Committee				
	Notes:						
1	Budget Committee	11/16/2015	pass				Pass
	Action Text:		The Committee recommends that Full Council pass the Council Bill (CB).				
	Notes:						
			In Favor: 8	Chair Licata, Member Bagshaw, Member Burgess, Member Godden, Member O'Brien, Okamoto, Member Rasmussen, Member Sawant			
			Opposed: 0				
1	Full Council	11/23/2015	passed				Pass
	Action Text:		The Council Bill (CB) was passed by the following vote and the President signed the Bill:				
			In Favor: 9	Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Okamoto, Councilmember Rasmussen, Councilmember Sawant			
			Opposed: 0				
1	City Clerk	11/30/2015	submitted for Mayor's signature	Mayor			
	Action Text:		The Council Bill (CB) was submitted for Mayor's signature. to the Mayor				

Notes:

1 Mayor 12/01/2015 Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

1 Mayor 12/01/2015 returned City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

1 City Clerk 12/01/2015 attested by City
Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE
ORDINANCE 124902
COUNCIL BILL 118558

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.028 of the Seattle Municipal Code, enacted by Ordinance 122989, is amended as follows:

5.40.028 Tax exemption—Musical venues ((;))

A. The admission tax as imposed in ((SMC)) Section 5.40.020 shall not apply to any person paying an admission charge to any premises or location for which the Director has issued a certificate of exemption pursuant to this Section 5.40.028; ((PROVIDED,)) however, ((that)) the admission tax shall be due for any and all admission charges paid prior to the issuance of a certificate of exemption, or paid after the Director has cancelled a certificate of exemption, or paid at any time during which a cancellation of a certificate of exemption could or should have been in effect under any one or more of ((paragraphs 1 through 6 of Subsection G of this Section)) subsections 5.40.028.G.1 through 5.40.020.G.6.

B. A premises or location is eligible for a certificate of exemption if either subsection 5.40.028.B.1 or 5.40.028.B.2 applies:

1. The premises or location has a certificate of occupancy of fewer than ((one thousand ()))1,000((;)) persons; and

((2;)) a. The person conducting or operating the premises or location or any other person authorized by such person hosts or presents live music on at least three (((3)))

1 separate days per week at the premises or location on a regular schedule. For purposes of this
2 Section 5.40.028, "live music" ~~((is defined as))~~ means an active performance of music by an
3 individual (or individuals) who, at the time of and during the performance, creates music or
4 engages in an audible form of artistic expression, other than, or in addition to, any pre-recorded
5 music, for an audience through the use or manipulation of voice, instruments, or electronic or
6 computerized equipment or formats; and

7 ~~((3.))~~ b. The person or persons conducting or operating the premises or
8 location or any other authorized person hires one ~~((1))~~ or more musicians to perform the
9 equivalent of ~~((sixteen-))~~ 16 ~~((1))~~ individual performances per week at the premises or location.
10 Repeat performances by the same individual or group shall each be counted. Where
11 performances are by a duo, trio, band, ensemble, or other performing group, the number of
12 individual performances shall be determined by multiplying the number of performing group
13 members by the number of performances by the group; and

14 ~~((4.))~~ c. The premises or location is current with all license and tax
15 requirements.

16 2. The premises or location has a certificate of occupancy of 500 or fewer
17 persons; and

18 a. The person conducting or operating the premises or location or any
19 other person authorized by such a person hosts or presents live music on at least two separate
20 days per week at the premises or location on a regular schedule; and

21 b. The premises or location is current with all license and tax
22 requirements.

1 C. A premises or location that has obtained more than three (~~((3))~~) violations of law
2 concerning public health, public safety, noise, licensing, taxing or permitting related to the
3 ownership, possession, occupation, operation, use, or maintenance of the location or premises in
4 any (~~((twelve-))~~)12(~~(())~~) month period shall be ineligible for a certificate of exemption for a period
5 of one year from the date of the last violation. For purposes of this Section 5.40.028 a premises
6 or location has obtained a violation if there is a legally binding final decision, order, citation, or
7 other finding of violation entered by any court, adjudicative body, or government agency against
8 any legal owner, operator, manager, or employee of the premises or location, or any other person
9 hosting or presenting live music at the premises or location.

10 D. Any person conducting or operating a premises or location seeking a certificate of
11 exemption under this Section 5.40.028, who has not previously been issued a certificate of
12 exemption for the same premises or location, shall present to the Director a copy of the
13 certificate of occupancy required under (~~((paragraph B-1 of this Section))~~) subsection 5.40.028.B,
14 and shall submit a completed application for the certificate of exemption on forms and in a
15 manner prescribed by the Director. The application shall contain a certification that the
16 conditions set forth in (~~((Subsections B-2 and 3 of this Section))~~) subsection 5.40.028.B will be
17 satisfied during the period that the certificate of exemption is to be in effect, and a separate
18 certification that the premises or location is not ineligible under (~~((Subsection C of this Section))~~)
19 subsection 5.40.028.C. The Director shall issue a certificate of exemption for the premises or
20 location, unless the Director finds that the eligibility requirements of (~~((Subsections B and C of~~
21 ~~this Section))~~) subsections 5.40.028.B and 5.40.028.C cannot be met. A certificate of exemption
22 is non-transferable, shall be valid only with respect to the original applicant, and shall apply only
23 to the premises or location that is the subject of the application.

1 E. A person to whom a certificate of exemption has been issued under this Section
2 5.40.028 shall report to the Director as follows:

3 1. ~~((On a quarterly basis each))~~ Each person to whom a certificate of exemption
4 has been issued for a premises or location that has a certificate of occupancy for 501 or more
5 persons shall report, on a quarterly basis, on forms prescribed by the Director, information
6 sufficient to verify that, during the corresponding quarter, the premises or location was in
7 compliance with the requirements of this Section 5.40.028, including, but not limited to, the
8 requirements in ((Subsections B 2 and 3 of this Section)) subsection 5.40.028.B, and that the
9 premises or location can continue to meet the requirements. The Director shall establish by rule
10 the information required. The report shall be due in accordance with the provisions pertaining to
11 the quarterly due dates for remittance of tax under ((SMC)) Chapter 5.55.

12 2. Each person to whom a certificate of exemption has been issued for a premises
13 or location that has a certificate of occupancy of 500 or fewer persons shall report, on an annual
14 basis, on forms prescribed by the Director, information sufficient to verify that, during the
15 corresponding year, the premises or location was in compliance with the requirements of this
16 Section 5.40.028, including, but not limited to, the requirements in subsection 5.40.028.B, and
17 that the premises or location can continue to meet the requirements. The Director shall establish
18 by rule the information required. The report shall be due in accordance with the provisions
19 pertaining to the quarterly due dates for remittance of tax under Chapter 5.55.

20 F. Each person to whom a certificate of exemption has been issued shall immediately
21 notify the Director if a premises or location for which a certificate of exemption has been issued
22 fails to be eligible under ~~((Subsection C of this Section))~~ subsection 5.40.028.C, or fails to be in
23 compliance with any requirement contained in this Section 5.40.028 or any rule or regulation of

1 the Director implementing it, other than those contained in (~~Subsections B 2 or 3 of this~~
2 ~~Section~~)) subsection 5.40.028.B.

3 G. The Director shall cancel the certificate of exemption of a location or premises upon a
4 determination by the Director:

5 1. That a person secured the certificate of exemption by making a false
6 representation in the application for the certificate; or

7 2. That the premises or location is ineligible for a certificate of exemption under
8 (~~Subsection C of this Section~~)) subsection 5.40.028.C; or

9 3. That the premises or location is not in compliance with any requirement
10 contained in this Section 5.40.028 or any rule or regulation of the Director implementing it other
11 than the requirements contained in (~~Subsections B 2 or 3 of this Section~~)) subsection
12 5.40.028.B; or

13 4. That, during any quarterly period, the premises or location fails to host or
14 present live music on at least (~~(80%)~~) 80 percent of the number of days that the premises is
15 required to present live music under (~~Subsection B 2~~)) subsection 5.40.028.B during that
16 quarterly period; or

17 5. That, during any quarterly period, the premises or location fails to hire
18 musicians to perform at least (~~(80%)~~) 80 percent of the number of individual performances
19 required under (~~Subsection B 3~~)) subsection 5.40.028.B during that quarterly period; or

20 6. That the person to whom the certificate of exemption has been issued no longer
21 conducts or operates the premises or location that is the subject of the exemption.

22 A person whose certificate of exemption has been cancelled may re-apply for a certificate
23 for the same premises or location, but no re-application shall be approved unless the person

1 shows that the premises or location is eligible under the requirements of this Section 5.40.028
2 and all rules and regulations of the Director implementing it at the time of the re-application, and
3 further, that the location or premises has been in compliance with ~~((Subsections B 2 and 3 of this~~
4 ~~Section))~~ subsection 5.40.028.B during the 30 day period prior to the re-application. Any person
5 wishing to re-apply shall submit the material required in ~~((Subsection D of this Section))~~
6 subsection 5.40.028.D, which material shall be current as of the date of the re-application, and, in
7 addition, shall submit all information required by the Director as established by rule, including
8 all information required to have been reported pursuant to ~~((Subsection E of this Section))~~
9 subsection 5.40.028.E during any period of time, within the maximum period of limitation
10 applicable under ~~((SMC))~~ Chapter 5.55 for the assessment of tax, that any previous certificate of
11 exemption was in effect.

12 H. The Director shall not issue a certificate of exemption to any person who is found by
13 the Director to have made a false representation on any application or re-application made under
14 this Section 5.40.028.

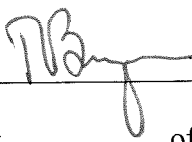
15 I. Any person to whom a certificate of exemption has been issued shall promptly notify
16 the Director of any change of address. If the Director has cancelled a certificate of exemption,
17 the Director shall provide notice of the cancellation to the person to whom the certificate of
18 exemption was issued by mailing such notice in writing to the address of the person as last
19 reported to the Director. Any person whose certificate of exemption has been cancelled may
20 contest the cancellation by filing a written request for hearing with the Hearing Examiner within
21 ten ~~((10))~~ days after the mailing of the notice of cancellation. If the person whose certificate of
22 exemption has been cancelled files a written request for hearing within the prescribed period, the

- 1 Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable
- 2 Hearing Examiner rules.
- 3

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.


Passed by the City Council the 23rd day of Nov., 2015, and signed by me in open session in authentication of its passage this

23rd day of Nov., 2015.



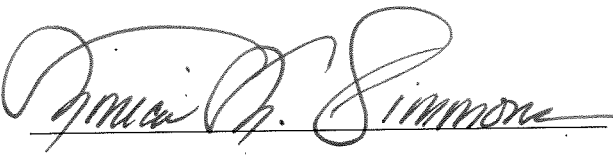
President _____ of the City Council

Approved by me this 1st day of December, 2015.



Edward B. Murray, Mayor

Filed by me this 1st day of December, 2015.



Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
LEG	Erik Sund/(206) 684-8368	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Summary and background of the Legislation: This legislation would simplify the criteria qualification for a certificate of exemption from the City's admission tax. The admission tax is paid by persons who pay to enter a club, theater, other location for entertainment, recreation, or amusement. The venue is responsible for collecting the tax and remitting it to the City. The tax rate is 5% of the admission charge and the proceeds are shared between the General Subfund (25%) and the Arts Account (75%). Separate legislation has been proposed that would increase the Arts Account's share of admission tax revenue to 80%.

The Seattle Municipal Code (SMC) provides for a number of exemptions from admission tax. One such exemption was established for patrons of live music clubs by the enactment of Ordinance 122989 in 2008. To qualify for the live music exemption for a venue must:

1. Apply to the Director of the Department of Finance and Administrative Services (FAS) for a certificate of exemption;
2. Have a certificate of occupancy of fewer than 1,000 persons;
3. Present live music at least three separate days per week;
4. Hire one or more musicians to perform the equivalent of 16 individual performances per week;
5. Meet certain standards for compliance with public health, safety, noise, licensing and tax laws (no more than three violations per 12 month period); and
6. Submit quarterly compliance reports to the Director of FAS.

This Ordinance would establish a less rigorous set of criteria for qualification for admission tax exemption for live music venues having a certificate of occupancy of 500 or fewer persons. The new standards would require that a venue:

1. Apply to the Director of the Department of Finance and Administrative Services (FAS) for a certificate of exemption;
2. Have a certificate of occupancy of 500 or fewer persons;
3. Present live music at least two (not three) separate days per week;
4. Meet certain standards for compliance with public health, safety, noise, licensing and tax laws (no more than three violations per 12 month period); and
5. Submit annual (not quarterly) compliance reports to the Director of FAS.

The eligibility criteria for smaller clubs would not include a minimum number of individual musicians' performances. Live music venues with a capacity of more than 500 but fewer than 1,000 persons would continue to be eligible for exemption from the admission tax provided that they meet the more stringent current criteria.

2. CAPITAL IMPROVEMENT PROGRAM

☐ **This legislation creates, funds, or amends a CIP Project.**

(If box is checked, please attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page.)

Project Name: Project I.D.: Project Location: Start Date: End Date: Total Cost:

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3. SUMMARY OF FINANCIAL IMPLICATIONS

Please check one:

☐ **This legislation has direct financial implications.** (If the legislation has direct fiscal impacts (appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" section.)

☒ **This legislation does not have direct financial implications.**
(Please skip to "Other Implications" section at the end of the document and answer questions a-i.)

Budget program(s) affected:				
Estimated \$ Appropriation change:	General Fund \$		Other \$	
	2015	2016	2015	2016
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2015	2016	2015	2016
Positions affected:	No. of Positions		Total FTE Change	
	2015	2016	2015	2016
Other departments affected:				

3.a. Appropriations

☐ **This legislation adds, changes, or deletes appropriations.**

(If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues)

Fund Name and	Dept	Budget Control	2015	2016 Estimated
---------------	------	----------------	------	----------------

number		Level Name/##	Appropriation Change	Appropriation Change
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

(This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not complete supported by revenue/reimbursements listed below, please identify the funding source (e.g. available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.)

Appropriations Notes:

3.b. Revenues/Reimbursements

☐ This legislation adds, changes, or deletes revenues or reimbursements.

(If this box is checked, please complete this section. If this box is not checked, please proceed to Positions)

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2015 Revenue	2016 Estimated Revenue
TOTAL				

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?)

Revenue/Reimbursement Notes:

3.c. Positions

☐ This legislation adds, changes, or deletes positions.

(If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications)

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2015 Positions	2015 FTE	Does it sunset? (If yes, explain below in Position Notes)

TOTAL							
--------------	--	--	--	--	--	--	--

* List each position separately

(This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.)

Position Notes:

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

It is possible that under this ordinance certain smaller music clubs that are unable or unwilling to comply with the requirements for exemption under the current standards will be able and willing to do so under the revised requirements. If this is the case, the City's admissions tax collections will be reduced. The City does not currently have the necessary data on the number of live music performances taking place in the city to estimate the impact accurately.

The 2008 ordinance that created the current live music exemption was estimated at the time to cost the City approximately \$300,000 per year in lost revenue based. If the clubs that could qualify under current law but are not due to lack of awareness or the administrative demands of exemption are a subset of that group then the remaining exposure to loss of admission tax revenue should be smaller.

In 2014, 81.3% of the City's \$8.1 million admission tax revenues were collected by the 20 entities remitting the largest admission tax amounts.

b) Is there financial cost or other impacts of not implementing the legislation?

(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.)

c) Does this legislation affect any departments besides the originating department?

(If so, please list the affected department(s), the nature of the impact (financial, operational, etc), and indicate which staff members in the other department(s) are aware of the proposed legislation.)

This legislation would place additional administrative requirements on the Department of Finance and Administrative Services and, if admission tax revenues were reduced, financial impact on the Office of Arts and Culture.

d) Is a public hearing required for this legislation?

(If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned for the future?)

e) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

(For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.)

f) Does this legislation affect a piece of property?

(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.)

g) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

(If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.)

h) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.

(This answer should highlight measureable outputs and outcomes.)

i) Other Issues:

List attachments/exhibits below:

STATE OF WASHINGTON -- KING COUNTY

--SS.

331450

No. 124899,900,902,903,904,05

CITY OF SEATTLE, CLERKS OFFICE

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.

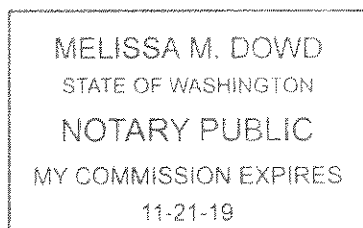
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

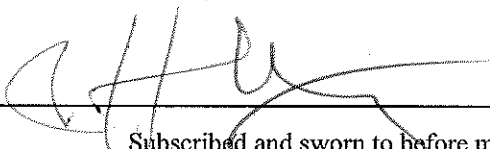
CT:TITLE ONLY ORDINANCES

was published on

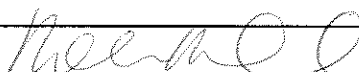
12/15/15

The amount of the fee charged for the foregoing publication is the sum of \$93.00 which amount has been paid in full.




Subscribed and sworn to before me on

12/15/2015


Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on November 23, 2015, 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>. Document Type Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124899

AN ORDINANCE authorizing, in 2015, acceptance of funding from non-City sources; authorizing the heads of the Human Services Department, Seattle Fire Department, Seattle Police Department and the Department of Finance and Administrative

Services to accept specified grants, private funding and donations and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

Ordinance 124900

AN ORDINANCE relating to the 2015 Budget; amending Ordinance 124648, which adopted the 2015 Budget, including the 2015-2020 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new projects; revising project allocations for certain projects in the 2015-2020 CIP; creating both exempt and nonexempt positions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 124902

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Ordinance 124903

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

Ordinance 124904

AN ORDINANCE relating to the financing of the Mercer West project; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Transportation Master Fund; and providing for the repayment thereof.

Ordinance 124905

AN ORDINANCE relating to street and sidewalk use; amending the Street Use Permit Fee Schedule authorized by Section 15.04.074 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, December 15, 2015.

12/15(331450)