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Passed, 4-0

The City of Seattle--Legislative Department

INDEXED

Date Reported
and Adopted

REPORT OF COMMITTEE

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____

report that we have considered the same and respectfully recommend that the same:

Full Council vote 9-0

RUSH

Committee Chair

D.S.C.

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ORDINANCE 118315

1 AN ORDINANCE relating to occupational utility taxes; amending Seattle Municipal Code
2 Sections 5.48.010, .020, .030, .050, .055, .060, .070, .072, .080, .090, .100, .110, .120, .140,
3 .150, .160, .170, .200, and .210; adding Sections 5.48.095, .135, and .220; repealing
4 Section 5.48.130, because it has been reworded and renumbered as 5.48.150; repealing
5 5.48.190 because it has been renumbered as 5.48.030(D) and (E); and repealing 5.48.250
6 because it has been renumbered as 5.48.070(D).

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

8 Section 1. Section 5.48.010 of the Seattle Municipal Code (Ordinance 62662 § 1) is
9 amended to read as follows:

10 **5.48.010 Exercise of revenue license power.**

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

16 Section 2. Section 5.48.020 of the Seattle Municipal Code (Ordinance 62662 § 2, as last
17 amended by Ordinance 117401 § 1) is further amended to read as follows:

18 **5.48.020 Definitions.**

19 A. In construing the provisions of this chapter unless otherwise declared or clearly
20 apparent from the context, the following definitions shall be applied:

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

23 2. "City" means The City of Seattle.

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3. ~~((P-))~~ "Cellular Telephone service" is a two (2) way voice and data telephone/telecommunicationssystem based in whole or substantial part on wireless radio communications and which is not subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specializ. mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. Cellular telephone service is included within the definitions of "telephone business" for purposes of this chapter and Chapter ~~((chapter))~~ 5.44.

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

5. ~~((P-))~~ "Construction, Demolition and Landclearing Waste" or "CDL Waste" has the meaning given in SMC Section 21.36.012.

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

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

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8. ~~((K-))~~ "Garbage" has the meaning given in SMC Section 21.36.014.

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

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

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11. ~~((B-))~~ "Person or persons" means any individual ((persons of either sex)), firm((s)), receiver, assignee, trustee in bankruptcy, trust, estate, firm, ((eo)) partnership(s), joint venture, joint-stock company, corporation((s)), association, society, limited liability corporation, and other association((s)) of natural persons, whether acting by themselves or by servants, agents, or employees and includes the United States or any instrumentality thereof, provided a valid tax may be levied upon or collected therefrom under the provisions of this chapter. The term includes all nonprofit tax-exempt organizations.

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1 first obtained, and being the holder of, a valid and subsisting license so to do, to be known as
2 an "occupation license."

3 B. Any person engaging in, or carrying on, more than one (1) such business, occupation,
4 pursuit or privilege shall pay the license tax so imposed upon each of the same.

5 C. Any taxpayer who engages in, or carries on, any business subject to tax under this
6 chapter without having his or her occupation license so to do, shall be guilty of a violation of
7 this chapter for each day during which the business is so engaged in or carried on, and any
8 taxpayer who fails or refuses to pay the license fee or tax or any part thereof on or before the
9 due date shall be deemed to be operating without having his or her license so to do.

10 D. ~~((5.48.190 A.))~~ All licenses issued pursuant to the provisions of this chapter shall be
11 kept posted by the licensee in a conspicuous place in the licensee's ~~((his))~~ principal place of
12 business in the City.

13 E. ~~((5.48.190 B.))~~ No person to whom a license has been issued ~~((r))~~ pursuant to this
14 chapter shall suffer or allow any other person chargeable with a separate license to operate
15 under or display his or her license, nor shall such other person operate under or display such
16 license.

17 Section 4. Section 5.48.050 of the Seattle Municipal Code (Ordinance 62662 § 5, as last
18 amended by Ordinance 117183 § 1(part)) is further amended to read as follows:

19 **5.48.050 Occupations subject to tax -- Amount.**

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

3 A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six
4 percent (6%) of the total gross income from such business in the City; provided, ~~((that the~~
5 ~~minimum fee or tax shall not be less than Fifty Dollars (\$50.00) per year, and provided~~
6 ~~further,))~~ that effective January 1, 1987, the tax liability imposed under this section shall not
7 apply for that portion of gross income derived from charges to another telecommunications
8 company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier
9 access charges relating to intrastate toll telephone services, or for access to, or charges for,
10 interstate services, which shall be taxed under SMC Chapter 5.44.

11 B. Upon everyone engaged in or carrying on the business of selling, brokering, or
12 furnishing gas for hire, a fee or tax equal to six percent (6%) of the total gross income from
13 such business in the City ~~((provided, that the minimum fee or tax shall not be less than One~~
14 ~~Thousand Dollars (\$1,000.00) per tax year)).~~

15 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business
16 of selling or furnishing water for hire, a fee or tax equal to ten percent (10%) of the total gross
17 income from such retail business in the City; ~~((provided that the minimum fee or tax shall not~~
18 ~~be less than One Thousand Dollars (\$1,000.00) per tax year, and))~~ provided ~~((further))~~ that as
19 to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable
20 to the business of such utility done without, as well as within, the City.

21 D. Upon everyone, including The City of Seattle, engaged in or carrying on the business
22 of selling or furnishing electric light and power, a fee or tax equal to six percent (6%) of the
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1 total gross income from such business in the City (~~provided, that the minimum fee or tax~~
2 ~~shall not be less than Two Hundred Fifty Dollars (\$250.00) per tax year; provided, that the tax~~
3 ~~liability imposed under this section shall not apply to The City of Seattle for that portion of the~~
4 ~~gross income derived by the imposition of the purchased power surcharge imposed upon the~~
5 ~~rates for the use of electric light and power pursuant to Section 1 of Ordinance 106481)). The
6 fee or tax imposed upon the municipal light and power system of the City shall be applicable
7 to the business of such system both within and without the City; provided, that as to the gross
8 income derived by such system from the production, sale or transfer of electric energy for
9 resale or consumption outside the state the fee or tax shall be in an amount equal to five
10 percent (5%) of the gross income.~~

11 E. Upon everyone conducting or engaged in the business of supplying steam heat or
12 power to the public for hire, a fee or tax equal to six percent (6%) of the total gross income
13 from such business in the City.

14 F. Upon The City of Seattle in respect to the conduct, maintenance, and operation of its
15 municipal drainage and wastewater system as a public utility a fee or tax equal to ten percent
16 (10%) of the total gross income from the drainage and wastewater charges provided for under
17 City ordinances.

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

19 H. Upon everyone engaged in the business of operating or conducting a cable television
20 system (CATV), a fee or tax equal to ten percent (10%) of the total gross income from gross
21 subscriber revenues. For purposes of this chapter, "gross subscriber revenues" means and
22 includes those revenues derived from the supplying of subscription service, that is, installation
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1 fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission
2 of broadcast signals and access and origination channels and per-program or per-channel
3 charges; provided the tax liability imposed under this section shall ((it does)) not include leased
4 channel revenue, advertising revenues, or any other income derived from the system, which
5 shall be taxed under SMC Chapter 5.44.

6 Section 5. Section 5.48.055 of the Seattle Municipal Code (Ordinance 62662 § 5, as last
7 amended by Ordinance 117183 § 1(part)) is further amended to read as follows:

8 **5.48.055 Solid waste activities subject to tax -- Amount.**

9 There are levied upon, and shall be collected from everyone including The City of Seattle,
10 on account of the following business activities engaged in or carried on with respect to solid
11 waste, an annual license fee or occupation tax in the amount to be determined by the
12 application of the rates given below:

13 A. Upon everyone engaged in or carrying on the business of operating a garbage transfer
14 station or upon the business of transferring solid waste generated in Seattle from one (1) mode
15 of transportation to another a fee or tax equal to Eight Dollars and Fifty Cents (\$8.80) per ton
16 of the waste handled for transportation or transported for garbage disposal, landfill, or
17 incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or
18 more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall
19 not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to
20 another whenever it is moved from a motor vehicle (including, for example, landgrading or
21 earthmoving equipment), barge, train or other carrier to another motor vehicle (including
22 landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or

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1 not temporary storage occurs in the process. Solid waste transported for recycling or reuse as
2 recovered material, yard waste destined for composting, items to be scrapped for salvage, and
3 sand and gravel for construction of a public improvement shall not be included in the tonnage
4 by which the fee or tax is measured.

5 B. Upon everyone engaged in or carrying on the business of operating a garbage transfer
6 station or upon the business of transferring solid waste generated outside of Seattle from one
7 (1) mode of transportation to another a fee or tax equal to Four Dollars and Forty Cents (\$4.40)
8 per ton of the waste handled for transportation or transported for garbage disposal, landfill, or
9 incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or
10 more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall
11 not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to
12 another whenever it is moved from a motor vehicle (including, for example, landgrading or
13 earthmoving equipment), barge, train or other carrier to another motor vehicle (including
14 landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or
15 not temporary storage occurs in the process, provided that waste shall not be considered
16 transferred if it has been placed in a sealed shipping container prior to being moved from one
17 mode of transportation to another in the City. Solid waste transported for recycling or reuse as
18 recovered material, yard waste destined for composting, items to be scrapped for salvage, and
19 sand and gravel for construction of a public improvement shall not be included in the tonnage
20 by which the fee or tax is measured.
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1 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business
2 of the collection of garbage, rubbish, trash, CDL Waste, and other solid waste, a fee or tax
3 measured by the total of these two components:

- 4 1. Ten percent (10%) of the total gross income from the collection of solid waste in
5 Seattle, less income derived from the activities identified in subsection D ((C)); and
6 2. Eleven Dollars and Seventy Cents (\$11.70) per ton of the materials collected in
7 Seattle, excluding the tonnage identified in subsection D.

8 D. The gross receipts factor identified in subsection ((C1)) C(1) above shall exclude
9 income derived from:

- 10 1. Collection and/or sale of recycled materials and/or recovered materials, including
11 charges for the lease or rental of containers used in the collection of recycled/recovered
12 materials;
13 2. Collection and/or sale after processing of yardwaste products, including charges for
14 the lease or rental of containers used in the collection of yardwaste products;
15 3. Sale of containers used for collection of residential solid waste;
16 4. Collection and disposal of bulky items and white goods;
17 5. Grants and contracts from governmental agencies;
18 6. The City of Seattle for collecting or disposing of residential garbage and other solid
19 waste;
20 7. The portion of the City's solid waste collection receipts expended for collection of
21 recyclable materials and yardwaste; and
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8. Transportation or deposit of sand and gravel for construction or a public improvement.

E. The tonnage factor identified in subsection ~~((C2))~~ C(2) above shall exclude income derived from recycled materials and/or recovered materials; yardwaste destined for composting; items to be recycled, reused, or scrapped for salvage, and/or sand and gravel for construction of a public improvement.

F. The tax imposed under subsection A applies to transferring ~~in the City ((Seattle))~~ of all solid waste generated in the City ((Seattle)); the tax imposed under subsection B applies to transferring in the City ((Seattle)) of all solid waste generated outside of the City ((Seattle)); and the tax imposed under subsection C applies only to collecting solid waste in the City ((Seattle)). The taxes imposed under subsections A and C are cumulative as to solid waste collected and transferred in the City ((Seattle)), even though the same tonnage of solid waste may be involved at each successive stage in the disposal process, and the economic burden of the two (2) taxes may aggregate.

G. Income derived from activities described in subsection D above ~~((C))~~ shall be taxed under SMC Chapter 5.44.

Section 6. Section 5.48.060 of the Seattle Municipal Code (Ordinance 62662 § 6, as last amended by Ordinance 117183 § 2) is further amended to read as follows:

5.48.060 City of Seattle subject to tax.

Subsections C, D, and F ~~((H))~~ of Section 5.48.055, and Section 5.48.140 shall, so far as permitted by law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required to conform to the other provisions of this chapter. ~~((The fee or~~

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1 tax imposed upon the municipal light and power system of the City shall be applicable to the
2 business of such system both within and without the City; provided, that as to the gross income
3 derived by such system from the production, sale or transfer of electric energy for resale or
4 consumption outside the state the fee or tax shall be in an amount equal to five percent (5%) of
5 the gross income.))

6 Section 7. Section 5.48.070 of the Seattle Municipal Code (Ordinance 62662 § 9, as last
7 amended by Ordinance 116951 § 4) is further amended to read as follows:

8 **5.48.070 Exceptions and deductions.**

9 A. There shall be excepted and deducted from the total gross income upon which the
10 license fee or tax is computed, amounts derived from business which the City is prohibited
11 from taxing under the Constitution or laws of the United States, the Constitution or laws of the
12 state, or the Charter of the City; and any amounts collected by the taxpayer as an excise tax
13 (trust funds) and remitted to the taxing authority, including but not limited to the leasehold
14 excise tax, retail sales and use tax, refuse collection tax, admission tax, and gambling tax.

15 B. Any person subject to a license fee or tax under the provisions of any ordinance of the
16 City, other than this chapter or Ordinance 98776, on account of engaging in any activity for
17 which he or she is liable for tax under this chapter, may deduct the amount of such fee or tax
18 from the amount of fee or tax imposed by this chapter on account of such activity, but such
19 person shall nevertheless, in the manner provided for in this chapter, apply for and procure an
20 occupation license.

21 ((C. — There shall be excluded from the total gross income upon which the license fee or
22 tax is computed the amount of state excise taxes, imposed pursuant to RCW 82.18.010 through
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RCW 82.18.080 upon persons using the service of a refuse collection business and collected by
the refuse collection business.)

C. ~~(D.)~~ A taxpayer engaged in a telephone business ~~((There))~~ shall ~~((be))~~ exclude~~((d))~~
from the total taxable gross income ~~((upon which the license fee or tax is computed))~~ charges
~~((by a taxpayer engaging in a telephone business))~~ to a telecommunications company, as
defined in RCW 80.04.010, for network telephone service, as defined in RCW 82.04.065, that
the telecommunication company purchases ~~((the purchaser buys))~~ for the purpose of resale.
This excluded revenue shall be recorded and taxed under SMC 5.44.

D. ~~((5.48.250))~~ A deduction from gross income shall be allowed, only to cellular
telephone service companies who keep their regular books of account on an accrual basis, for
credit losses actually sustained by a taxpayer as a result of cellular telephone service business
which shall be phased in as follows: twenty percent (20%) of the credit losses occurring in
1995; forty percent (40%) of the credit losses occurring in 1996; sixty percent (60%) of the
credit losses occurring in 1997; and eighty percent (80%) of the credit losses occurring in
1998; and a complete deduction for the credit losses occurring in 1999 and thereafter.

Section 8. Section 5.48.072 of the Seattle Municipal Code (Ordinance 116955 § 3) is
amended to read as follows:

5.48.072 Anti-pyramiding credit for haulers of CDL Waste.

There shall be allowed to anyone who is engaged in ~~((carrying on))~~ the business of the
collection of CDL Waste and subject to tax under subsection 5.48.055 (C) ~~((Section 5.48.050
H))~~ a credit against the tax in the amount of One Dollar and Forty-three Cents (\$1.43) per ton
for each ton of CDL Waste collected in the City ~~((Seattle))~~, delivered to a person engaged in or

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1 carrying on the business of transferring CDL Waste from one (1) mode of transportation to
2 another under subsection 5.48.055(A) ~~((Section 5.48.050-G))~~ (called the "transfer station"), and
3 used by the transfer station in measuring the tax due under subsection 5.48.055(A) ~~((Section~~
4 ~~5.48.050-G))~~ upon the transfer station's ~~((stations's))~~ activities of transferring CDL Waste from
5 one (1) mode of transportation to another. When the transfer station engages in recycling
6 activities, the tonnage used by the taxpayer in measuring the credit shall be reduced by the
7 proportion of the transfer station's tonnage recycled.

8 This section is intended to prevent pyramiding of the economic impact of the tax imposed
9 under subsection ~~((s))~~ 5.48.055(A) ~~((G and H of Section 5.48.050))~~ on CDL Waste, and is
10 limited in its application to fulfilling that purpose.

11 Section 9. Section 5.48.080 of the Seattle Municipal Code (Ordinance 62662 § 10, as last
12 amended by Ordinance 117169 § 45) is further amended to read as follows:

13 **5.48.080 Application for license.**

14 On or before the first day of each tax year, every taxpayer shall apply to the Finance
15 Director for an occupation license, upon forms provided by the Director. Every such
16 application shall be accompanied by ~~((the specified minimum))~~ a license fee of Twenty-five
17 Dollars (\$25.00) ~~((or tax, which amount shall be credited against future installments; provided~~
18 ~~Section 7A occupation license applications shall be accompanied by the specified annual fee or~~
19 ~~quarterly installment thereof)).~~

20 Section 10. Section 5.48.090 of the Seattle Municipal Code (Ordinance 62662 § 11, as last
21 amended by Ordinance 117169 § 46) is further amended to read as follows:

22 **5.48.090 Monthly ~~((and quarterly))~~ payment of tax -- Returns.**

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1 A. ~~((Where the amount of the license fee or tax is based upon gross income, the))~~ The
2 taxpayer shall pay the ((his)) fee or tax ((in)) monthly ((installments)) during the tax year ((life
3 of his license,)). Each ((each such installment to)) monthly remittance shall be paid on or
4 before the last ((fifteenth)) day of each month during the tax year and to)) and shall be based
5 on the total gross income of the preceding month. ~~((In all other cases the taxpayer may pay his~~
6 ~~fee or tax in equal installments during the life of the license, each such installment to be paid~~
7 ~~on or before March 1st, June 1st, September 1st, and December 1st respectively.))~~ The
8 payment shall be made as provided in subsection B and shall be accompanied by a return,
9 which consists of a form provided by the Finance Director and completed by the taxpayer. The
10 return shall be signed by the taxpayer personally or by a responsible officer or agent of the
11 taxpayer. The individual signing the return shall swear or affirm that the information on the
12 return is full and true.

13 B. Remittance ((Each such remittance)) shall be by bank draft, certified check, cashier's
14 check or money order, payable to The City of Seattle ((the City Finance Director))
15 in the amount of the tax or fee ((or installment)) thereof required by the provisions of this
16 chapter. ((and shall be accompanied by a return on blanks or forms prepared and provided by
17 the Director requesting such information as may be necessary to enable the Director to
18 determine the lawful amount of the fee or tax. The taxpayer shall, in a legible manner, write in
19 such blank or form or return the information required and shall sign the same and by affidavit
20 at the foot thereof shall swear or affirm that the information given is full and true and that he or
21 she knows the same to be so.)) If payment is made by draft or check, the tax or fee shall not be
22 deemed paid unless the check or draft is honored in the usual course of business; nor shall the
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acceptance of any sum by the Finance Director be an acquittance of discharge of the tax or fee due unless the amount of the payment is in the full and actual amount due.

C. If the taxpayer is a partnership, the return must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager of the corporation, copartnership or individual.

Section 11. There is added a new Section 5.48.095 to Chapter 5.48 of the Seattle Municipal Code as follows:

5.48.095 Mailing of notices.

Any notice required by this chapter to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the address of the taxpayer as shown by the records of the Finance Director, or if no such address is shown, to such address as the Director is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such mailed notice shall not release the taxpayer from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter.

Section 12. Section 5.48.100 of the Seattle Municipal Code (Ordinance 62662 § 12, as last amended by Ordinance 113690 § 7) is further amended to read as follows:

5.48.100 Commencement of business during tax year.

Whenever a taxpayer commences during any tax year to engage in any business, occupation, pursuit or privilege, for which an occupation license is required under the provisions of this chapter, and as to which the amount of the license fee or tax is based on gross income, his or her returns and the license fee or tax shall be based upon and cover the

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1 portion of the tax year during which he or she is engaged in business, subject to the conditions
2 as set forth in Section 5.48.090.

3 Section 13. Section 5.48.110 of the Seattle Municipal Code (Ordinance 62662 § 14) is
4 amended to read as follows:

5 **5.48.110 Quitting, selling ((Sale)) or transferring of business.**

6 ((Upon the sale or transfer during any tax year of a business on account of which a fee or
7 tax is required by this chapter, the purchaser or transferee shall, if the fee or tax has not been
8 paid in full for the year, be responsible for its payment for that portion of the year during which
9 he carries on such business.))

10 Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of his
11 or her business or stock of goods, any tax or fee payable hereunder shall become immediately
12 due and payable, and such taxpayer shall, within twenty (20) days thereafter, make a return and
13 pay the tax or fee due; and any person who becomes a successor shall become liable for the full
14 amount of the tax or fee and withhold from the purchase price a sum sufficient to pay any
15 amount due from the taxpayer until such time as the taxpayer shall produce a receipt from the
16 Department showing payment of any amounts due for taxes or fees or a certificate that none is
17 due, and if such tax or fees is not paid by the taxpayer within twenty (20) days from the date of
18 such sale, exchange, or disposal, the successor shall become liable for the payment of the full
19 amount of taxes and fees, and the payment thereof by such successor shall, to the extent
20 thereof, be deemed a payment upon the purchase price, and if such payment is greater in
21 amount than the purchase price the amount of the difference shall become a debt due such
22 successor from the taxpayer. No successor shall be liable for any tax or fee due from the
23

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1 person from whom he or she has acquired a business or stock of goods if he or she gave written
2 notice to the Director of such acquisition and no assessment is issued by the Department within
3 six (6) months of such notice against the former operator of the business and a copy thereof
4 mailed to such successor.

5 Section 14. Section 5.48.120 of the Seattle Municipal Code (Ordinance 62662 § 15, as last
6 amended by Ordinance 117408 § 23) is further amended to read as follows:

7 **5.48.120 Taxpayer to keep books and records -- Failure to make return or provide**
8 **records -- Returns confidential.**

9 ((A. — It shall be the duty of each taxpayer taxed upon his gross income to keep and enter
10 in a proper book or set of books or records an account which shall accurately reflect the
11 amount of his or her gross income, which account shall always be open to the inspection of the
12 Finance Director, or his or her duly authorized agent, and from which the officer or his or her
13 agent may verify the return made by the taxpayer.))

14 A. It shall be the duty of every person liable for the payment of any tax or fee imposed by
15 this chapter to keep and preserve for the period of five (5) years such books and records as will
16 accurately reflect the amount of his or her gross income, gross proceeds of sale or value of
17 products, as the case may be, and from which can be determined the amount of any tax or fee
18 for which he or she may be liable under the provisions of this chapter; and all such books and
19 records, including state and federal tax returns, and also invoices, vendor lists, inventories and
20 stocks of goods, wares and merchandise shall be open for examination at all reasonable times
21 by the Finance Director or his or her duly authorized agent.

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1 B. In the case of any such person who does not keep the necessary books and records
2 within the City for examination it shall be sufficient if such person produces within the City
3 such books and records as may be required by the Director or bears the cost of examination by
4 the Director's agent at the place where such books and records are kept; provided that the
5 person electing to bear such cost shall pay in advance to the Director the estimated amount
6 thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment
7 upon completion of the examination.

8 C. If any taxpayer fails, neglects or refuses to make his or her return as and when required
9 in this chapter, or refuses to provide or make available records as requested by the Department,
10 the Finance Director is authorized to determine the amount of the tax payable by obtaining
11 facts and information upon which to base his or her estimate of the tax. Such assessment shall
12 be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer.
13 The taxpayer shall be notified by mail by the Director of the amount of tax so determined,
14 together with any penalty, interest, and fees due under this chapter; the total of such amounts
15 shall thereupon become immediately due and payable.

16 D((B)). The applications, statements or returns made to the Director pursuant to this chapter
17 shall not be made public, nor shall they be subject to the inspection of any person except the
18 Mayor, the City Attorney, the ((City)) Finance Director or his or her authorized agent,
19 members of the City Council or their authorized agents, and the Director of the Office of
20 Management and Planning or his or her authorized agent. Returns are also subject to disclosure
21 when the Public Disclosure Act, RCW 42.17.160, et seq., requires disclosure.

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1 Section 15. Section 5.48.130 of the Seattle Municipal Code (Ordinance 62662 § 16, as last
2 amended by Ordinance 117169 § 48) is repealed because it has been reworded and renumbered
3 as 5.48.150:

4 ~~((5.48.130 Director to investigate returns.~~

5 ~~If any taxpayer fails to apply for license or make his return, or if the Finance Director is~~
6 ~~dissatisfied as to the correctness of the statements made in the application or return of any~~
7 ~~taxpayer, the officer, or his or her authorized agent, may enter the premises of such taxpayer at~~
8 ~~any reasonable time for the purpose of inspecting his or her books or records of account to~~
9 ~~ascertain the amount of the fee or tax or to determine the correctness of such statements, as the~~
10 ~~case may be, and may examine any person under oath administered by the officer or his or her~~
11 ~~agent touching the matters inquired into, or the officer or his or her authorized agent may fix a~~
12 ~~time and place for an investigation of the correctness of the return and may issue a subpoena to~~
13 ~~the taxpayer, or any other person, to attend upon such investigation and there testify, under~~
14 ~~oath administered by the officer or his or her agent in regard to the matters inquired into and~~
15 ~~may, by subpoena, require the taxpayer, or any person, to bring with him/her such books,~~
16 ~~records and papers as may be necessary.))~~

17 Section 16 There is added a new Section 5.48.135 to Chapter 5.48 of the Seattle Municipal
18 Code as follows:

19 5.48.135 Computation of time.

20 Except as otherwise specifically provided by any other provisions of this chapter, in
21 computing any period of days prescribed by this chapter the day of the act or event from which
22 the designated period of time runs shall not be included. The last day of the period shall be

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

4 Section 17. Section 5.48.140 of the Seattle Municipal Code (Ordinance 62662 § 16.A, as
5 last amended by Ordinance 117169 § 49) is further amended to read as follows:

6 **5.48.140 Payments -- Extensions ~~((of time for filing returns))~~ - ~~((Late payment of tax~~
7 ~~--)) Penalties.~~**

8 A. The Finance Director for good cause shown may extend the time for making and filing
9 any return required under this chapter and may grant such reasonable additional time within
10 which to make and file such return as he or she ~~((he/she))~~ may deem proper.

11 B. Failure to make payment or return by the due date—If any tax return, or payment of
12 any fee or tax, is not received by the ((City)) Finance Director on or before the last ~~((by the~~
13 ~~twenty-fifth))~~ day of the month in which such fee or tax becomes due, there shall be assessed a
14 penalty of five percent (5%) of the amount due with a minimum penalty of Ten ~~((Five))~~
15 Dollars ~~((Ten))~~ ~~(((\$5.00)))~~; and if the fee or tax is not received within thirty (30) days from
16 the due date ~~((by the twenty-fifth day of the month next succeeding the month in which the due~~
17 ~~date falls))~~, there shall be assessed a total penalty of ten percent (10%) of the amount due with
18 a minimum penalty of Twenty ~~((Fifteen))~~ Dollars ~~((Twenty))~~ ~~(((\$15.00)))~~; and if the fee or tax is
19 not received within sixty (60) days from the due date ~~((by the twenty-fifth day of the second~~
20 ~~month next succeeding the month in which the due date falls))~~, there shall be assessed a total
21 penalty of twenty percent (20%) of the amount due, with a minimum penalty of Forty
22 ~~((Twenty-five))~~ Dollars ~~((Forty))~~ ~~(((\$25.00)))~~.

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1 C. Interest and penalty on late payment--If the Finance Director finds that the tax, fee, or
2 penalty paid is less than the amount due, the Director shall mail the taxpayer a notice showing
3 the balance due and shall add thereto interest on such balance at the rate of ten percent (10%)
4 per year from the date of underpayment until paid, and the taxpayer shall, within twenty (20)
5 days from the notice date, pay the amount shown thereon as the balance due plus such interest.
6 If payment of any tax, fee, penalty, or interest assessed by the Finance Director is not received
7 by the Department within the twenty (20) days, or any extension thereof, the Director shall add
8 a penalty of ten percent (10%) of the amount of the additional tax or assessment found due.
9 No penalty so added shall be less than Twenty Dollars (\$20.00).

10 D. Citation/Criminal Complaint--If a citation or criminal complaint is issued by the
11 Director for the collection of taxes, assessments, interest, or penalties, there shall be added
12 thereto a penalty of ten percent (10%) of the amount due, but not less than Twenty Dollars
13 (\$20.00).

14 E. Penalty for disregarding specific written instructions--If the Director finds that all or
15 any part of a deficiency resulted from the disregard of specific written instructions as to
16 reporting of tax liabilities, the Director shall add a penalty of twenty percent (20%) of the
17 additional tax found due because of the failure to follow the instructions. A taxpayer will be
18 deemed to disregard specific written instruction when the Director has informed the taxpayer
19 in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with
20 those instructions unless the Department has not issued final instructions because the matter is
21 under appeal pursuant to this Chapter. The Director shall not assess the penalty under this
22 section upon any taxpayer who, in the Director's opinion, has made a good faith effort to

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comply with the specific written instructions provided by the Department to that taxpayer.

1 Specific written instructions may be given as a part of a tax assessment, audit, determination,
2 letter of instruction or closing agreement, provided that such specific written instructions shall
3 apply only to the taxpayer addressed or referenced in such documents. Any specific written
4 instructions by the Department shall be clearly identified as such and shall inform the taxpayer
5 that failure to follow the instructions may subject the taxpayer to the penalties imposed by this
6 subsection. No penalty so added shall be less than Twenty Dollars (\$20.00).

7
8 Section 18. Section 5.48.150 of the Seattle Municipal Code (Ordinance 62662 § 17, as last
9 amended by Ordinance 117169 § 50) is further amended to read as follows:

10 **5.48.150 Over or under payment of tax.**

11 A. If the Finance Director upon investigation or upon reviewing returns finds that the total
12 tax paid is more than the amount due within the preceding three (3) year period, he or she shall
13 allow the overpayment as a credit upon future taxes due and/or certify the amount overpaid for
14 refund by a warrant upon the General Fund.

15 B. ((If the Director finds that the fee or tax is less than required, he or she shall mail the
16 taxpayer a statement how much balance due and shall add thereto interest on such balance at
17 the rate of ten percent per year from the date of underpayment until paid and the
18 taxpayer shall within ten (10) days from the date of mailing statement, pay the balance due
19 plus interest shown thereon.)) Assessments or demands for any ((The Director shall not make
20 any demand for an)) additional tax, fee, penalty or interest shall be made by the Director within
21 ((more than)) four (4) years after the close of the calendar year in which the same accrued with
22 following exceptions ((unless)):

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1. ~~((A-))~~ Against a taxpayer who is not currently licensed or has not filed a tax return
((The taxpayer is not registered)) as required by this chapter; assessments or demands for any
additional tax, fee, penalty or interest due, as provided for in Section 5.48.140, as a result of
failure to obtain and maintain a license as provided for under Section 5.48.080 and file a tax
return as required by this chapter may be made by the Director within ten (10) years after the
close of the calendar year in which the same accrued;

2. ~~((B-))~~ Against a ((The)) taxpayer who has committed a fraud or misrepresented a
material fact; or

3. ~~((C-))~~ The taxpayer has waived this limitation in writing.

C. The Finance Director may enter into an agreement in writing with any person relating
to the liability of such person in respect of any tax, fee, or assessment imposed by this chapter
for any taxable period or periods.

Section 19. Section 5.48.160 of the Seattle Municipal Code (Ordinance 62662 § 18, as last
amended by Ordinance 117169 § 51) is further amended to read as follows:

5.48.160 Remedy for nonpayment of tax – Tax and fees constitute debt.

~~((A.))~~ If any taxpayer fails to apply for a license, or make his or her returns, or to pay the
fee or tax therefor, or any part thereof, within fifteen (15) days after the same shall have
become due, the Finance Director shall ascertain the amount of the fee or tax or installment
thereof due and shall notify such taxpayer thereof, who shall be liable therefor in any suit or
action by the City for the collection thereof.

~~B.~~ The Finance Director shall also notify the City Attorney in writing of the name of such
delinquent taxpayer and the amount due from him or her, and the officer shall, with the

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1 assistance of the Finance Director, collect the same by any appropriate means or by suit or
2 action in the name of the City.))

3 Any tax or fee due and unpaid and delinquent under this chapter, and all penalties thereon,
4 may be collected by civil action, which remedy shall be in addition to any and all other
5 existing remedies.

6 Any tax or fee due and unpaid under this chapter, and all interest and penalties thereon,
7 shall constitute a debt to The City of Seattle and may be collected by court proceedings in the
8 same manner as any other debt in like amount which remedy shall be in addition to all other
9 existing remedies.

10 Section 20. Section 5.48.170 of the Seattle Municipal Code (Ordinance 62662 § 19, as last
11 amended by Ordinance 117169 § 52) is further amended to read as follows:

12 **5.48.170 Appeals and Judicial Review.**

13 Any taxpayer aggrieved by the amount of the ~~((fee-€*))~~ tax, fee, interest, or penalty
14 assessed ((found)) by the Finance Director ~~((to be required))~~ under the provisions of this
15 chapter, may file a written appeal ("petition") with the Office of the Hearing Examiner within
16 twenty (20) days from the date that the assessment notice was mailed to the taxpayer, or within
17 the period covered by any extension of said due date granted in writing by the Finance Director
18 ~~((time such taxpayer was given notice of such amount and providing a copy of the notice of~~
19 appeal to the Director and the City Attorney)). The Finance Director may grant an extension of
20 the appeal period only if the taxpayer, within the twenty (20) day period to appeal, makes
21 written application showing good cause why an extension is necessary. A copy of the petition
22 must be provided by the taxpayer to the Finance Director and the City Attorney on or before
23

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1 the date the petition is filed with the Hearing Examiner. If no such petition is filed with the
2 Hearing Examiner and provided to the Finance Director and City Attorney within the twenty
3 (20) day period, the assessment covered by the notice shall become final and no refund request
4 maybe made for the audit period covered in this assessment.

5 B. The petition shall set forth the reasons why the assessment should be reversed or
6 modified and the amount of the tax, fee, interest, or penalties which the taxpayer believes to be
7 due. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer
8 thereof by mail. The hearing shall be conducted in accordance with the procedures for hearing
9 contested cases in the Seattle Administrative Code (SMC Chapter 3.02; Ordinance 102228).

10 C. The Finance Director's assessment ((determination)) appealed from shall be regarded
11 as prima facie correct. The Hearing Examiner may, by subpoena, require the attendance of any
12 person at the hearing, and may also require him or her to produce pertinent books and records.
13 Any person served with such a subpoena shall appear at the time and place therein stated and
14 produce the books and records required, if any, and shall testify truthfully under oath
15 administered by the Hearing Examiner as to any matter required of him or her pertinent to the
16 appeal; and it shall be unlawful for him or her to fail or refuse to do so.

17 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain
18 the correct amount of the ((fee or)) tax, fee, interest, or penalty due if the Director's assessment
19 ((determination)) violates the terms of this chapter or is contrary to law. The decision of the
20 Hearing Examiner shall be final. The taxpayer and/or the Department of Finance may seek
21 review of the decision of the Hearing Examiner to the Superior Court of Washington in and for
22 King County within fourteen (14) days from the date of the decision.

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1 Section 21. Section 5.48.190 of the Seattle Municipal Code (Ordinance 62662 § 21 as last
2 amended by Ordinance 102620 § 10) is repealed because it has been reworded and renumbered
3 as 5.48.030(D) and (E).

4 ~~((5.48.190-Display of licenses.))~~

5 Section 22. Section 5.48.200 of the Seattle Municipal Code (Ordinance 62662 § 22) is
6 amended to read as follows:

7 **5.48.200 Unlawful acts ~~((False statements))~~.**

8 It shall be unlawful for any person liable ~~for the ((to))~~ tax or fee under this chapter to fail or
9 refuse to make application or secure ~~((return for))~~ a license or to pay the fee or tax ~~((or~~
10 installment) thereof when due, or for any person to make any false or fraudulent application or
11 return or any false statement or representation in, or in connection with, any such application or
12 return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part
13 thereof, or for any person to fail to appear and/or testify in response to subpoena issued
14 pursuant to this chapter, or to testify falsely upon any investigation of the correctness of a
15 return, or upon the hearing of any appeal, or in any manner to hinder or delay the City or any
16 of its officers in carrying out the provisions of this chapter. Remedial action by the City may
17 include fines as provided for in Section 5.48.210.

18 Section 23. Section 5.48.210 of the Seattle Municipal Code (Ordinance 62662 § 24, as last
19 amended by Ordinance 117169 § 54) is further amended to read as follows:

20 **5.48.210 Violation -- Penalty.**

21 A. A ~~((Any))~~ person who violates or fails ~~((violating or failing))~~ to comply with any ~~((of~~
22 the) provision(s) of this chapter or any ~~((lawful))~~ rule, ~~((or))~~ regulation or order of the

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1 ~~((adopted by the Finance))~~ Director ~~is~~ ~~((pursuant to this chapter, shall be deemed))~~ guilty of a
2 misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle
3 Municipal Code, except that absolute liability shall be imposed for such a violation or failure
4 to comply and none of the mental states described in Section 12A.04.030 of the Seattle
5 Municipal Code need be proved. A corporation which violates or fails to comply with any
6 provision of this chapter or any rule, regulation or order of the Director shall be punished by a
7 fine of not more than One Thousand (\$1,000). Each day of violation or failure to comply is a
8 separate offense. ((and, upon conviction thereof, shall be punished by a fine in any sum not to
9 exceed Three Hundred Dollars (\$300.00), or by imprisonment in the City Jail for a term not
10 exceeding ninety (90) days, or by both such fine and imprisonment))

11 B. Prosecution for a criminal offense shall not be commenced more than four (4) years
12 after the violation or failure to comply.

13 Section 24. There is added a new Section 5.48.220 to Chapter 5.48, of the Seattle
14 Municipal Code as follows:

15 **5.48.220 Fees for copies and research.**

16 The Finance Director may charge a fee:

17 A. For making copies of books and records as authorized by Ordinance 100501, as now
18 existing or hereafter amended or supplemented;

19 B. For compiling statistics and conducting special research as authorized in a fee schedule
20 approved by the City Council by resolution from time-to-time to reimburse the City's cost
21 therefor; and

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1 C. For the bulk sale of City forms and printed brochures and other publications in an
2 amount equal to the cost of preparing, reproducing and distributing them as determined by the
3 Director by rule adopted pursuant to the Administrative Code, Sections 3.02.030 through
4 3.02.070.

5 Section 25 . Section 5.48.250 of the Seattle Municipal Code (Ordinance 117401 § 2) is
6 repealed because it has been renumbered as 5.48.070(D).

7 ~~((5.48.250 Bad Debt deduction—cellular telephone service companies.))~~

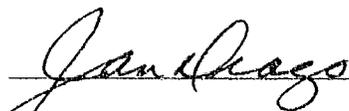
8 Section 26. The provisions of this ordinance are declared to be separate and severable.
9 The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this
10 ordinance, or the invalidity of the application thereof to any person or circumstance shall not
11 affect the validity of the remainder of this ordinance, or the validity of its application to other
12 persons or circumstances.

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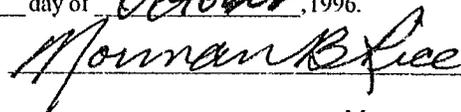
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1 Section 27. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

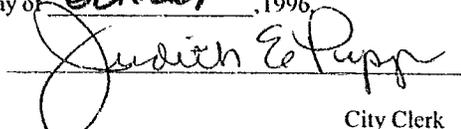
4 PASSED by the City Council of the City of Seattle this 7 day of
5 October, 1996, and signed by me in open session in authentication of its passage this
6 7 day of October, 1996.

7
8 
9 President _____ of the City Council

10 Approved by me this 17 day of October, 1996.

11 
12 Mayor

13 Filed by me this 18 day of October, 1996.

14 
15 City Clerk

16
17 (Seal)

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City of Seattle
Department
of Finance

Dwight D. Dively
Director of Finance

Norman B. Rice
Mayor

September 9, 1996

The Honorable Jan Drago
President, Seattle City Council
600 Fourth Avenue, 11th Floor
Seattle, Washington 98104

RECEIVED OMP
SEP 10 1996

Via: Mayor's Office
Attention: Tom Tierney, Director, Office of Management and Planning
Subject: Rewrite of Chapter 5.48: Utility Taxes

Dear Councilmember Drago,

The attached ordinance amends Chapter 5 of the Seattle Municipal Code. It continues the ongoing efforts of the Finance and Law Departments to clarify the City's tax and license codes.

This ordinance is part of a set of four ordinances that make related changes to SMC Chapter 5. The attached ordinance covers Chapter 5.48, which is the City's utility tax code. The other three ordinances cover Chapter 5.32 (general revenue license provisions), Chapter 5.44 (business licenses and B&O taxes), and Chapter 5.52 (gambling taxes). Since many of the proposed changes are inter-related, we request that all four ordinances be considered together.

Summary

The attached ordinance extensively rewrites Chapter 5.48, the utility tax code. The rewrite has four purposes:

1. To update definitions to reflect current practices.
2. To correct language and cross-references that have become incorrect as a result of amendments made throughout the last forty years.
3. To eliminate some trivial requirements that add extra work for City staff and utilities.
4. To establish procedures for penalties, appeals, and other administrative practices that will be consistent with those used for general B&O taxes.

The proposed changes are solely of an administrative nature: no change in tax revenue is expected to result.

Section Review

The following list outlines the nature and purpose of the proposed changes to each section of Chapter 5.48.

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5.48.010 Exercise of revenue license power.

New language has been added reiterating that it is the responsibility of the taxpayer to comply with the Municipal Code.

5.48.020 Definitions.

Several definitions have been added. No substantive changes result from these modifications.

5.48.030 Occupation license required -- Display of license.

Provisions from section 5.48.190 have been moved here for clarity.

5.48.050 Occupations subject to tax -- Amount.

Minimum fees for utility taxes have been eliminated. These amounts are trivial and have caused considerable administrative confusion. The reference to a utility tax exemption for City Light's surcharge has been eliminated since the surcharge has expired. Language has been moved from other sections to increase clarity.

5.48.055 Solid waste activities subject to tax -- Amount.

Several incorrect references have been corrected.

5.48.060 City of Seattle subject to tax.

A cross-reference has been corrected.

5.48.070 Exceptions and deductions.

Subsection C has been combined with subsection A to increase clarity. The taxable basis for telephone companies under new subsection C (old subsection D) has been clarified.

5.48.072 Anti-pyramiding credit for haulers of CDL waste.

Several incorrect references have been corrected.

5.48.080 Application for license.

The license application fee has been set at \$25 per year, which replaces the minimum payments that were eliminated under section 5.48.050. References to "Section 7A occupation license applications" have been deleted since such licenses are no longer required by the City.

5.48.090 Monthly payment of tax -- Returns.

This section has been extensively rewritten. References to quarterly payments have been eliminated since all utility taxpayers pay on a monthly basis. Payment provisions have been updated to correspond to the approach used in the B&O tax code.

5.48.095 Mailing of notices.

This section has been added. It is the same as the section in the B&O tax code.

5.48.100 Commencement of business during tax year.

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Minor editorial changes have been made to this section.

5.48.110 Quitting, selling, or transferring business.

This section has been changed to correspond to the B&O tax code.

5.48.120 Taxpayer to keep books and records -- Failure to make return or provide records -- Returns confidential.

This section has been changed to correspond to the B&O tax code.

5.48.135 Computation of time.

This section has been added. It is the same as the section in the B&O tax code.

5.48.140 Payments -- Extensions -- Penalties.

This section has been changed to correspond to the B&O tax code.

5.48.150 Over or under payment of tax.

Subsection B has been changed to correspond to the B&O tax code.

5.48.160 Remedy for nonpayment of tax -- Tax and fees constitute debt.

This section has been changed to correspond to the B&O tax code.

5.48.170 Appeals and Judicial Review.

This section has been changed to correspond to the B&O tax code.

5.48.200 Unlawful acts.

Minor editorial changes have been made to this section.

5.48.210 Violation -- Penalty.

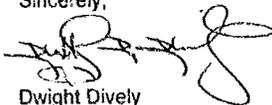
This section has been revised by the Law Department and is consistent with the B&O tax code.

5.48.220 Fees for copies and research.

This section has been added. It is the same as the section in the B&O tax code.

Thank you for your consideration of the proposed changes. Questions regarding this ordinance can be directed to Norma Bush at 233-0010.

Sincerely,



Dwight Dively
Finance Director

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ORDINANCE _____

1 AN ORDINANCE relating to occupational utility taxes; amending Seattle Municipal Code
2 Sections 5.48.010, .020, .030, .050, .055, .060, .070, .072, .080, .090, .100, .110, .120, .140,
3 .150, .160, .170, .200, and .210; adding Sections 5.48.095, .135, and .220; repealing
Sections 5.48.130, .190, and .250.

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

5 Section 1. Section 5.48.010 of the Seattle Municipal Code (Ordinance 62662 § 1) is
6 amended to read as follows.

7 **5.48.010 Exercise of revenue license power.**

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

13 Section 2. Section 5.48.020 of the Seattle Municipal Code (Ordinance 62662 § 2, as last
14 amended by Ordinance 117401 § 1) is further amended to read as follows:

15 **5.48.020 Definitions.**

16 A. In construing the provisions of this chapter unless otherwise declared or clearly
17 apparent from the context, the following definitions shall be applied:

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

20 2. "City" means The City of Seattle.

21 3. ((P:)) "Cellular Telephone service" is a two (2) way voice and data
22 telephone/telecommunications system based in whole or substantial part on wireless radio
23

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1 communications and which is not subject to regulation by the Washington Utilities and
2 Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile
3 service includes other wireless radio communications services such as specialized mobile radio
4 (SMR), personal communications services (PCS), and any other evolving wireless radio
5 communications technology which accomplishes the same purpose as cellular mobile service.
6 Cellular telephone service is included within the definitions of "telephone business" for
7 purposes of this chapter and Chapter ((chapter)) 5.44.

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

15 5. ((F-)) "Construction, Demolition and Landclearing Waste" or "CDL Waste" has the
16 meaning given in SMC Section 21.36.012.

17 6. "Department" or "Finance Department" means the Finance Department of The City of
18 Seattle, or its functional successor.

19 7. "Director" or "Finance Director" means the Finance Director of The City of Seattle, or
20 his or her functional successor.

21 8. ((F-)) "Garbage" has the meaning given in SMC Section 21.36.014.
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~~9. ((A-))~~ "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not), by reason of the investment of capital in the business engaged in, including rentals, royalties, fees, or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses, including the amount of credit losses actually sustained by the taxpayer whose regular books or accounts are kept upon an accrual basis.

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

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~~11. ((B-))~~ "Person or persons" means any individual ((persons of either sex)), firm((s)), receiver, assignee, trustee in bankruptcy, trust, estate, firm, ((eo)) partnership(s), joint venture, joint-stock company, corporation(s), association, society, limited liability corporation, and other association(s) of natural persons, whether acting by themselves or by servants, agents, or employees and includes the United States or any instrumentality thereof, provided a valid tax may be levied upon or collected therefrom under the provisions of this chapter. The term includes all nonprofit tax-exempt organizations.

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~~20. ((D-)) "Tax year" or "taxable year" shall mean(s) either the calendar year~~
~~((commencing March 1st and ending on the last day of February of the following year,)) or((~~
~~in lieu thereof,)) the taxpayer's fiscal year when a permission is obtained from the Finance~~
~~Director to use a fiscal year in lieu of the calendar year ((the same as the tax period)).~~

~~21. ((E-)) "Telephone business" means the business of providing access to a local~~
~~telephone network, local telephone network switching service, toll service, coin telephone~~
~~services, telephonic, video, data, two-way pagers, or similar communication, or transmission~~
~~for hire, via a local telephone network, toll line or channel, cable, microwave, or similar~~
~~communication or transmission system. The term includes cooperative or farmer line~~
~~telephone companies or associations operating exchanges. "Telephone business" does not~~
~~include the providing of competitive telephone service, or providing of cable television service,~~
~~or other providing of broadcast services by radio or television stations.~~

~~22. "Within the City" or "in the City" includes but is not limited to all federal areas lying~~
~~within the boundaries of The City of Seattle.~~

~~23. ((G-)) "Yardwaste" has the meaning given in SMC Section 21.36.016.~~

~~B. Words in the singular number shall include the plural, and plural shall include the~~
~~singular. Words of one (a) gender shall include all other genders.~~

Section 3. Section 5.48.030 of the Seattle Municipal Code (Ordinance 62662 § 3) is
amended to read as follows:

5.48.030 Occupation utility license required -- Display of license.

A. After July 1, 1932, no person shall engage in or carry on any business, occupation,
pursuit or privilege for which a license fee or tax is imposed by this chapter without having

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1 first obtained, and being the holder of, a valid and subsisting license so to do, to be known as
2 an "occupation license."

3 B. Any person engaging in, or carrying on, more than one (1) such business, occupation,
4 pursuit or privilege shall pay the license tax so imposed upon each of the same.

5 C. Any taxpayer who engages in, or carries on, any business subject to tax under this
6 chapter without having his or her occupation license so to do, shall be guilty of a violation of
7 this chapter for each day during which the business is so engaged in or carried on, and any
8 taxpayer who fails or refuses to pay the license fee or tax or any part thereof on or before the
9 due date shall be deemed to be operating without having his or her license so to do.

10 D. ~~((5.48.190 A.))~~ All licenses issued pursuant to the provisions of this chapter shall be
11 kept posted by the licensee in a conspicuous place in the licensee's ~~((his))~~ principal place of
12 business in the City.

13 E. ~~((5.48.190 B.))~~ No person to whom a license has been issued ~~((s))~~ pursuant to this
14 chapter shall suffer or allow any other person chargeable with a separate license to operate
15 under or display his or her license, nor shall such other person operate under or display such
16 license.

17 Section 4. Section 5.48.050 of the Seattle Municipal Code (Ordinance 62662 § 5, as last
18 amended by Ordinance 117183 § 1(part)) is further amended to read as follows:

19 **5.48.050 Occupations subject to tax -- Amount.**

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

3 A. Upon everyone engaged in or carrying on a telephone business, a fee or tax equal to six
4 percent (6%) of the total gross income from such business in the City; provided, ~~((that the~~
5 ~~minimum fee or tax shall not be less than Fifty Dollars (\$50.00) per year; and provided~~
6 ~~further,))~~ that effective January 1, 1987, the tax liability imposed under this section shall not
7 apply for that portion of gross income derived from charges to another telecommunications
8 company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier
9 access charges relating to intrastate toll telephone services, or for access to, or charges for,
10 interstate services, which shall be taxed under SMC Chapter 5.44.

11 B. Upon everyone engaged in or carrying on the business of selling, brokering, or
12 furnishing gas for hire, a fee or tax equal to six percent (6%) of the total gross income from
13 such business in the City ~~((; provided, that the minimum fee or tax shall not be less than One~~
14 ~~Thousand Dollars (\$1,000.00) per tax year)).~~

15 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business
16 of selling or furnishing water for hire, a fee or tax equal to ten percent (10%) of the total gross
17 income from such retail business in the City; ~~((provided that the minimum fee or tax shall not~~
18 ~~be less than One Thousand Dollars (\$1,000.00) per tax year; and))~~ provided ~~((further))~~ that as
19 to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable
20 to the business of such utility done without, as well as within, the City.

21 D. Upon everyone, including The City of Seattle, engaged in or carrying on the business
22 of selling or furnishing electric light and power, a fee or tax equal to six percent (6%) of the
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1 total gross income from such business in the City (~~(= provided, that the minimum fee or tax~~
2 ~~shall not be less than Two Hundred Fifty Dollars (\$250.00) per tax year; provided, that the tax~~
3 ~~liability imposed under this section shall not apply to The City of Seattle for that portion of the~~
4 ~~gross income derived by the imposition of the purchased power surcharge imposed upon the~~
5 ~~rates for the use of electric light and power pursuant to Section I of Ordinance 106481)). The
6 fee or tax imposed upon the municipal light and power system of the City shall be applicable
7 to the business of such system both within and without the City; provided, that as to the gross
8 income derived by such system from the production, sale or transfer of electric energy for
9 resale or consumption outside the state the fee or tax shall be in an amount equal to five
10 percent (5%) of the gross income.~~

11 E. Upon everyone conducting or engaged in the business of supplying steam heat or
12 power to the public for hire, a fee or tax equal to . . . percent (6%) of the total gross income
13 from such business in the City.

14 F. Upon The City of Seattle in respect to the conduct, maintenance, and operation of its
15 municipal drainage and wastewater system as a public utility a fee or tax equal to ten percent
16 (10%) of the total gross income from the drainage and wastewater charges provided for under
17 City ordinances.

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

19 H. Upon everyone engaged in the business of operating or conducting a cable television
20 system (CATV), a fee or tax equal to ten percent (10%) of the total gross income from gross
21 subscriber revenues. For purposes of this chapter, "gross subscriber revenues" means and
22 includes those revenues derived from the supplying of subscription service, that is, installation
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1 fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission
2 of broadcast signals and access and origination channels and per-program or per-channel
3 charges; provided the tax liability imposed under this section shall (it does) not include leased
4 channel revenue, advertising revenues, or any other income derived from the system, which
5 shall be taxed under SMC Chapter 5.44.

6 Section 5. Section 5.48.055 of the Seattle Municipal Code (Ordinance 62662 § 5, as last
7 amended by Ordinance 117183 § 1(part)) is further amended to read as follows:

8 **5.48.055 Solid waste activities subject to tax -- Amount.**

9 There are levied upon, and shall be collected from everyone including The City of Seattle,
10 on account of the following business activities engaged in or carried on with respect to solid
11 waste, an annual license fee or occupation tax in the amount to be determined by the
12 application of the rates given below:

13 A. Upon everyone engaged in or carrying on the business of operating a garbage transfer
14 station or upon the business of transferring solid waste generated in Seattle from one (1) mode
15 of transportation to another a fee or tax equal to Eight Dollars and Eighty Cents (\$8.80) per ton
16 of the waste handled for transportation or transported for garbage disposal, landfill, or
17 incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or
18 more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall
19 not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to
20 another whenever it is moved from a motor vehicle (including, for example, landgrading or
21 earthmoving equipment), barge, train or other carrier to another motor vehicle (including
22 landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or

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1 not temporary storage occurs in the process. Solid waste transported for recycling or reuse as
2 recovered material, yard waste destined for composting, items to be scrapped for salvage, and
3 sand and gravel for construction of a public improvement shall not be included in the tonnage
4 by which the fee or tax is measured.

5 B. Upon everyone engaged in or carrying on the business of operating a garbage transfer
6 station or upon the business of transferring solid waste generated outside of Seattle from one
7 (1) mode of transportation to another a fee or tax equal to Four Dollars and Forty Cents (\$4.40)
8 per ton of the waste handled for transportation or transported for garbage disposal, landfill, or
9 incineration purposes. To prevent pyramiding of the tax under this subsection when two (2) or
10 more transfers occur in Seattle, the fee or tax is imposed only upon the last transferor and shall
11 not apply to earlier transfers. Waste is transferred from one (1) mode of transportation to
12 another whenever it is moved from a motor vehicle (including, for example, landgrading or
13 earthmoving equipment), barge, train or other carrier to another motor vehicle (including
14 landgrading or earthmoving equipment), barge, train or other carrier, irrespective of whether or
15 not temporary storage occurs in the process, provided that waste shall not be considered
16 transferred if it has been placed in a sealed shipping container prior to being moved from one
17 mode of transportation to another in the City. Solid waste transported for recycling or reuse as
18 recovered material, yard waste destined for composting, items to be scrapped for salvage, and
19 sand and gravel for construction of a public improvement shall not be included in the tonnage
20 by which the fee or tax is measured.
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1 C. Upon everyone, including The City of Seattle, engaged in or carrying on the business
2 of the collection of garbage, rubbish, trash, CDL Waste, and other solid waste, a fee or tax
3 measured by the total of these two components:

- 4 1. Ten percent (10%) of the total gross income from the collection of solid waste in
5 Seattle, less income derived from the activities identified in subsection D ~~((C))~~; and
6 2. Eleven Dollars and Seventy Cents (\$11.70) per ton of the materials collected in
7 Seattle, excluding the tonnage identified in subsection D.

8 D. The gross receipts factor identified in subsection ~~((C))~~ C(1) above shall exclude
9 income derived from:

- 10 1. Collection and/or sale of recycled materials and/or recovered materials, including
11 charges for the lease or rental of containers used in the collection of recycled/recovered
12 materials;
13 2. Collection and/or sale after processing of yardwaste products, including charges for
14 the lease or rental of containers used in the collection of yardwaste products;
15 3. Sale of containers used for collection of residential solid waste;
16 4. Collection and disposal of bulky items and white goods;
17 5. Grants and contracts from governmental agencies;
18 6. The City of Seattle for collecting or disposing of residential garbage and other solid
19 waste;
20 7. The portion of the City's solid waste collection receipts expended for collection of
21 recyclable materials and yardwaste; and
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8. Transportation or deposit of sand and gravel for construction or a public improvement.

F. The tonnage factor identified in subsection ~~((C2)) C(2)~~ above shall exclude income derived from recycled materials and/or recovered materials; yardwaste destined for composting; items to be recycled, reused, or scrapped for salvage, and/or sand and gravel for construction of a public improvement.

F. The tax imposed under subsection A applies to transferring in the City ((Seattle)) of all solid waste generated in the City ((Seattle)); the tax imposed under subsection B applies to transferring in the City ((Seattle)) of all solid waste generated outside of the City ((Seattle)); and the tax imposed under subsection C applies only to collecting solid waste in the City ((Seattle)). The taxes imposed under subsections A and C are cumulative as to solid waste collected and transferred in the City ((Seattle)), even though the same tonnage of solid waste may be involved at each successive stage in the disposal process, and the economic burden of the two (2) taxes may aggregate.

G. Income derived from activities described in subsection D above ((C)) shall be taxed under SMC Chapter 5.44.

Section 5.48.060 of the Seattle Municipal Code (Ordinance 62662 § 6, as last amended by Ordinance 117183 § 2) is further amended to read as follows:

5.48.060 City of Seattle subject to tax.

Subsections C, D, and E ((H)) of Section 5.48.050, Section 5.48.055, and Section 5.48.140 shall, so far as permitted by law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required to conform to the other provisions of this chapter. ~~((The fee or~~

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1 tax imposed upon the municipal light and power system of the City shall be applicable to the
2 business of such system both within and without the City; provided, that as to the gross income
3 derived by such system from the production, sale or transfer of electric energy for resale or
4 consumption outside the state the fee or tax shall be in an amount equal to five percent (5%) of
5 the gross income.)

6 Section 7. Section 5.48.070 of the Seattle Municipal Code (Ordinance 62662 § 9, as last
7 amended by Ordinance 116951 § 4) is further amended to read as follows:

8 **5.48.070 Exceptions and deductions.**

9 A. There shall be excepted and deducted from the total gross income upon which the
10 license fee or tax is computed, amounts derived from business which the City is prohibited
11 from taxing under the Constitution or laws of the United States, the Constitution or laws of the
12 state, or the Charter of the City; and any amounts collected by the taxpayer as an excise tax
13 (trust funds) and remitted to the taxing authority, including but not limited to the leasehold
14 excise tax, retail sales and use tax, refuse collection tax, admission tax, and gambling tax.

15 B. Any person subject to a license fee or tax under the provisions of any ordinance of the
16 City, other than this chapter or Ordinance 98776, on account of engaging in any activity for
17 which he or she is liable for tax under this chapter, may deduct the amount of such fee or tax
18 from the amount of fee or tax imposed by this chapter on account of such activity, but such
19 person shall nevertheless, in the manner provided for in this chapter, apply for and procure an
20 occupation license.

21 ~~((C. There shall be excluded from the total gross income upon which the license fee or~~
22 ~~tax is computed the amount of state excise taxes, imposed pursuant to RCW 82.18.010 through~~

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RCW 82.18.080 upon persons using the service of a refuse collection business and collected by
the refuse collection business.)

C. ~~((D.))~~ A taxpayer engaged in a telephone business ~~((There))~~ shall ~~((be))~~ exclude~~((d))~~
from the total taxable gross income ~~((upon which the license fee or tax is computed))~~ charges
~~((by a taxpayer engaging in a telephone business))~~ to a telecommunications company, as
defined in RCW 80.04.010, for network telephone service, as defined in RCW 82.04.065, that
the telecommunication company purchases ~~((the purchaser buys))~~ for the purpose of resale.

This excluded revenue shall be recorded and taxed under SMC 5.44.

D. ~~((5.48.250))~~ A deduction from gross income shall be allowed, only to cellular
telephone service companies who keep their regular books of account on an accrual basis, for
credit losses actually sustained by a taxpayer as a result of cellular telephone service business
which shall be phased in as follows: twenty percent (20%) of the credit losses occurring in
1995; forty percent (40%) of the credit losses occurring in 1996; sixty percent (60%) of the
credit losses occurring in 1997; and eighty percent (80%) of the credit losses occurring in
1998; and a complete deduction for the credit losses occurring in 1999 and thereafter.

Section 8. Section 5.48.072 of the Seattle Municipal Code (Ordinance 116955 § 3) is
amended to read as follows:

5.48.072 Anti-pyramiding credit for haulers of CDL Waste.

There shall be allowed to anyone who is engaged in ~~((carrying on))~~ the business of the
collection of CDL Waste and subject to tax under subsection 5.48.055 (C) ~~((Section 5.48.050
H))~~ a credit against the tax in the amount of One Dollar and Forty-three Cents (\$1.43) per ton
for each ton of CDL Waste collected in the City ~~((Seattle))~~, delivered to a person engaged in or

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1 carrying on the business of transferring CDL Waste from one (1) mode of transportation to
2 another under subsection 5.48.055(A) ~~((Section 5.48.050 G))~~ (called the "transfer station"), and
3 used by the transfer station in measuring the tax due under subsection 5.48.055(A) ~~((Section~~
4 ~~5.48.050 G))~~ upon the transfer station's ~~((stations's))~~ activities of transferring CDL Waste from
5 one (1) mode of transportation to another. When the transfer station engages in recycling
6 activities, the tonnage used by the taxpayer in measuring the credit shall be reduced by the
7 proportion of the transfer station's tonnage recycled.

8 This section is intended to prevent pyramiding of the economic impact of the tax imposed
9 under subsection ~~(G)~~ 5.48.055(A) ~~((G and H of Section 5.48.050))~~ on CDL Waste, and is
10 limited in its application to fulfilling that purpose.

11 Section 9. Section 5.48.080 of the Seattle Municipal Code (Ordinance 62662 § 10, as last
12 amended by Ordinance 117169 § 45) is further amended to read as follows:

13 **5.48.080 Application for license.**

14 On or before the first day of each tax year, every taxpayer shall apply to the Finance
15 Director for an occupation license, upon forms provided by the Director. Every such
16 application shall be accompanied by ~~((the specified minimum))~~ a license fee of Twenty-five
17 Dollars (\$25.00) ~~((or tax, which amount shall be credited against future installments; provided~~
18 ~~Section 7A occupation license applications shall be accompanied by the specified annual fee or~~
19 ~~quarterly installment thereof)).~~

20 Section 10. Section 5.48.090 of the Seattle Municipal Code (Ordinance 62662 § 11, as last
21 amended by Ordinance 117169 § 46) is further amended to read as follows:

22 **5.48.090 Monthly ~~((and quarterly))~~ payment of tax -- Returns.**

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1 A. ~~((Where the amount of the license fee or tax is based upon gross income, the))~~ The
2 taxpayer shall pay the ((his)) fee or tax ((in)) monthly ((installments)) during the tax year ((life
3 of his license.)) ~~Each ((each such installment to))~~ monthly remittance shall be paid on or
4 before the last ((fifteenth)) day of each month ((during the tax year and to)) and shall be based
5 on the total gross income of the preceding month. ~~((In all other cases the taxpayer may pay his~~
6 ~~fee or tax in equal installments during the life of his license, each such installment to be paid~~
7 ~~on or before March 1st, June 1st, September 1st, and December 1st respectively.))~~ The
8 payment shall be made as provided in subsection B and shall be accompanied by a return,
9 which consists of a form provided by the Finance Director and completed by the taxpayer. The
10 return shall be signed by the taxpayer personally or by a responsible officer or agent of the
11 taxpayer. The individual signing the return shall swear or affirm that the information in the
12 return is full and true.

13 B. Remittance ~~((Each such remittance))~~ shall be by bank draft, certified check, cashier's
14 check or money order, payable to The City of Seattle ((the City Finance Director)) or in cash,
15 in the amount of the tax or fee ~~((or installment))~~ thereof required by the provisions of this
16 chapter. ~~((and shall be accompanied by a return on blanks or forms prepared and provided by~~
17 ~~the Director requesting such information as may be necessary to enable the Director to~~
18 ~~determine the lawful amount of the fee or tax. The taxpayer shall, in a legible manner, write in~~
19 ~~each blank or form or return the information required and shall sign the same and by affidavit~~
20 ~~at the foot thereof shall swear or affirm that the information given is full and true and that he or~~
21 ~~she knows the same to be so.))~~ If payment is made by draft or check, the tax or fee shall not be
22 deemed paid unless the check or draft is honored in the usual course of business; nor shall the

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acceptance of any sum by the Finance Director be an acquittance of discharge of the tax or fee
due unless the amount of the payment is in the full and actual amount due.

C. If the taxpayer is a partnership, the return must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, copartnership or nonresident individual, by the resident agent or local manager of the corporation, copartnership or individual.

Section 11. There is added a new Section 5.48.095 to Chapter 5.48 of the Seattle Municipal Code as follows:

5.48.095 Mailing of notices.

Any notice required by this chapter to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the address of the taxpayer as shown by the records of the Finance Director, or if no such address is shown, to such address as the Director is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such mailed notice shall not release the taxpayer from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter.

Section 12. Section 5.48.100 of the Seattle Municipal Code (Ordinance 52662 § 12, as last amended by Ordinance 113690 § 7) is further amended to read as follows:

5.48.100 Commencement of business during tax year.

Whenever a taxpayer commences during any tax year to engage in any business, occupation, pursuit or privilege, for which an occupation license is required under the provisions of this chapter, and as to which the amount of the license fee or tax is based on gross income, his or her returns and the license fee or tax shall be based upon and cover the

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1 portion of the tax year during which he or she is engaged in business, subject to the conditions
2 as set forth in Section 5.48.090.

3 Section 13. Section 5.48.110 of the Seattle Municipal Code (Ordinance 62662 § 14) is
4 amended to read as follows:

5 **5.48.110 Quitting, selling ((Sale)) or transferring of business.**

6 ((Upon the sale or transfer during any tax year of a business on account of which a fee or
7 tax is required by this chapter, the purchaser or transferee shall, if the fee or tax has not been
8 paid in full for the year, be responsible for its payment for that portion of the year during which
9 he carries on such business.))

10 Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of his
11 or her business or stock of goods, any tax or fee payable hereunder shall become immediately
12 due and payable, and such taxpayer shall, within twenty (20) days thereafter, make a return and
13 pay the tax or fee due; and any person who becomes a successor shall become liable for the full
14 amount of the tax or fee and withhold from the purchase price a sum sufficient to pay any
15 amount due from the taxpayer until such time as the taxpayer shall produce a receipt from the
16 Department showing payment of any amounts due for taxes or fees or a certificate that none is
17 due, and if such tax or fees is not paid by the taxpayer within twenty (20) days from the date of
18 such sale, exchange, or disposal, the successor shall become liable for the payment of the full
19 amount of taxes and fees, and the payment thereof by such successor shall, to the extent
20 thereof, be deemed a payment upon the purchase price, and if such payment is greater in
21 amount than the purchase price the amount of the difference shall become a debt due such
22 successor from the taxpayer. No successor shall be liable for any tax or fee due from the
23

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1 person from whom he or she has acquired a business or stock of goods if he or she gave written
2 notice to the Director of such acquisition and no assessment is issued by the Department within
3 six (6) months of such notice against the former operator of the business and a copy thereof
4 mailed to such successor.

5 Section 14. Section 5.48.120 of the Seattle Municipal Code (Ordinance 62662 § 15, as last
6 amended by Ordinance 117408 § 23) is further amended to read as follows:

7 **5.48.120 Taxpayer to keep books and records -- Failure to make return or provide**
8 **records -- Returns confidential.**

9 ((A. It shall be the duty of each taxpayer taxed upon his gross income to keep and enter
10 in a proper book or set of books or records an account which shall accurately reflect the
11 amount of his or her gross income, which account shall always be open to the inspection of the
12 Finance Director, or his or her duly authorized agent, and from which the officer or his or her
13 agent may verify the return made by the taxpayer.))

14 A. It shall be the duty of every person liable for the payment of any tax or fee imposed by
15 this chapter to keep and preserve for the period of five (5) years such books and records as will
16 accurately reflect the amount of his or her gross income, gross proceeds of sale or value of
17 products, as the case may be, and from which can be determined the amount of any tax or fee
18 for which he or she may be liable under the provisions of this chapter; and all such books and
19 records, including state and federal tax returns, and also invoices, vendor lists, inventories and
20 stocks of goods, wares and merchandise shall be open for examination at all reasonable times
21 by the Finance Director or his or her duly authorized agent.

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1 B. In the case of any such person who does not keep the necessary books and records
2 within the City for examination it shall be sufficient if such person produces within the City
3 such books and records as may be required by the Director or bears the cost of examination by
4 the Director's agent at the place where such books and records are kept; provided that the
5 person electing to bear such cost shall pay in advance to the Director the estimated amount
6 thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment
7 upon completion of the examination.

8 C. If any taxpayer fails, neglects or refuses to make his or her return as and when required
9 in this chapter, or refuses to provide or make available records as requested by the Department,
10 the Finance Director is authorized to determine the amount of the tax payable by obtaining
11 facts and information upon which to base his or her estimate of the tax. Such assessment shall
12 be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer.
13 The taxpayer shall be notified by mail by the Director of the amount of tax so determined,
14 together with any penalty, interest, and fees due under this chapter; the total of such amounts
15 shall thereupon become immediately due and payable.

16 D((B)). The applications, statements or returns made to the Director pursuant to this chapter
17 shall not be made public, nor shall they be subject to the inspection of any person except the
18 Mayor, the City Attorney, the ((City)) Finance Director or his or her authorized agent,
19 members of the City Council or their authorized agents, and the Director of the Office of
20 Management and Planning or his or her authorized agent. Returns are also subject to disclosure
21 when the Public Disclosure Act, RCW 42.17.160, et seq., requires disclosure.
22
23

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1 Section 15. Section 5.48.130 of the Seattle Municipal Code (Ordinance 62662 § 16, as last
2 amended by Ordinance 117169 § 48) is repealed in its entirety:

3 ~~((5.48.130 Director to investigate returns.~~

4 ~~If any taxpayer fails to apply for license or make his return, or if the Finance Director is
5 dissatisfied as to the correctness of the statements made in the application or return of any
6 taxpayer, the officer, or his or her authorized agent, may enter the premises of such taxpayer at
7 any reasonable time for the purpose of inspecting his or her books or records of account to
8 ascertain the amount of the fee or tax or to determine the correctness of such statements, as the
9 case may be, and may examine any person under oath administered by the officer or his or her
10 agent touching the matters inquired into, or the officer or his or her authorized agent may fix a
11 time and place for an investigation of the correctness of the return and may issue a subpoena to
12 the taxpayer, or any other person, to attend upon such investigation and there testify, under
13 oath administered by the officer or his or her agent in regard to the matters inquired into and
14 may, by subpoena, require the taxpayer, or any person, to bring with him/her such books,
15 records and papers as may be necessary.))~~

16 Section 16. There is added a new Section 5.48.135 to Chapter 5.48 of the Seattle Municipal
17 Code as follows:

18 5.48.135 Computation of time.

19 Except as otherwise specifically provided by any other provisions of this chapter, in
20 computing any period of days prescribed by this chapter the day of the act or event from which
21 the designated period of time runs shall not be included. The last day of the period shall be
22 included unless it is a Saturday, Sunday, or City legal holiday, in which case the last day of

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such period shall be the next succeeding day which is neither a Saturday, Sunday, or City legal holiday.

Section 17. Section 5.48.140 of the Seattle Municipal Code (Ordinance 62662 § 16.A, as last amended by Ordinance 117169 § 49) is further amended to read as follows:

5.48.140 Payments -- Extensions (of time for filing returns) -- (Late payment of tax --) Penalties.

A. The Finance Director for good cause shown may extend the time for making and filing any return required under this chapter and may grant such reasonable additional time within which to make and file such return as he or she ((he/she)) may deem proper.

B. Failure to make payment or return by the due date -- If any tax return, or payment of any fee or tax, is not received by the ((City)) Finance Director on or before the last ((by the twenty-fifth)) day of the month in which such fee or tax becomes due, there shall be assessed a penalty of five percent (5%) of the amount due with a minimum penalty of Ten ((Five)) Dollars (\$10.00) (((\$5.00))); and if the fee or tax is not received within thirty (30) days from the due date ((by the twenty-fifth day of the month next succeeding the month in which the due date falls)), there shall be assessed a total penalty of ten percent (10%) of the amount due with a minimum penalty of Twenty ((Fifteen)) Dollars \$20.00 (((\$15.00)); and if the fee or tax is not received within sixty (60) days from the due date ((by the twenty-fifth day of the second month next succeeding the month in which the due date falls)), there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum penalty of Forty ((Twenty-five)) Dollars (\$40.00) (((\$25.00))).

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1 C. Interest and penalty on late payment--If the Finance Director finds that the tax, fee, or
2 penalty paid is less than the amount due, the Director shall mail the taxpayer a notice showing
3 the balance due and shall add thereto interest on such balance at the rate of ten percent (10%)
4 per year from the date of underpayment until paid, and the taxpayer shall, within twenty (20)
5 days from the notice date, pay the amount shown thereon as the balance due plus such interest.
6 If payment of any tax, fee, penalty, or interest assessed by the Finance Director is not received
7 by the Department within the twenty (20) days, or any extension thereof, the Director shall add
8 a penalty of ten percent (10%) of the amount of the additional tax or assessment found due.
9 No penalty so added shall be less than Twenty Dollars (\$20.00).

10 D. Citation/Criminal Complaint--If a citation or criminal complaint is issued by the
11 Director for the collection of taxes, assessments, interest, or penalties, there shall be added
12 thereto a penalty of ten percent (10%) of the amount due, but not less than Twenty Dollars
13 (\$20.00).

14 E. Penalty for disregarding specific written instructions--If the Director finds that all or
15 any part of a deficiency resulted from the disregard of specific written instructions as to
16 reporting of tax liabilities, the Director shall add a penalty of twenty percent (20%) of the
17 additional tax found due because of the failure to follow the instructions. A taxpayer will be
18 deemed to disregard specific written instruction when the Director has informed the taxpayer
19 in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with
20 those instructions unless the Department has not issued final instructions because the matter is
21 under appeal pursuant to this Chapter. The Director shall not assess the penalty under this
22 section upon any taxpayer who, in the Director's opinion, has made a good faith effort to

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comply with the specific written instructions provided by the Department for that taxpayer.
Specific written instructions may be a notice of deficiency, assessment, audit, determination,
letter of instruction or closing agreement, and that such specific written instructions shall
apply only in the taxpayer address or as set out on such documents. Any specific written
instructions by the Department shall be clearly identified as such and shall inform the taxpayer
that failure to follow the instructions may subject the taxpayer to the penalties imposed by this
subsection. No penalty so added shall be less than Twenty Dollars (\$20.00).

F. The aggregate of penalties imposed under this section for failure to make payment or
return by the due date as described by subsection B, late payment of any tax, assessment or
tax penalty as described by subsection C, or issuance of a citation or criminal complaint as
described in subsection D shall not exceed forty percent (40%) of the tax or assessment due, or
Sixty Dollars (\$60.00), whichever is greater.

Section 1B, Section 5.48.150 of the Seattle Municipal Code (Ordinance 67662 § 17, as last
amended by Ordinance 117169 § 50) is further amended to read as follows:

5.48.150 Over or under payment of tax.

A. If the Finance Director upon investigation or upon reviewing returns finds that the total
tax paid is more than the amount due within the preceding three (3) year period, he or she shall
allow the overpayment as a credit upon future taxes due and/or certify the amount overpaid for
refund by a warrant upon the General Fund.

B. If the Finance Director finds that the due on tax is less than required, he or she shall verify the
taxpayer's statements showing the balance due and shall add three to interest on such balance and
the rate of ten percent (10%) per year from the date of such payment until paid in full.

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1 taxpayer shall within ten (10) days from the date of mailing statement, pay the balance due
2 plus interest shown thereon.) Assessments or demands for any ((The Director shall not make
3 any demand for an)) additional tax, fee, penalty or interest shall be made by the Director within
4 ((more than)) four (4) years after the close of the calendar year in which the same accrued with
5 following exceptions ((unless)):

6 1. ((A-)) Against a taxpayer who is not currently licensed or has not filed a tax return
7 ((The taxpayer is not registered)) as required by this chapter; assessments or demands for any
8 additional tax, fee, penalty or interest due, as provided for in Section 5.48.140, as a result of
9 failure to obtain and maintain a license as provided for under Section 5.48.080 and file a tax
10 return as required by this chapter may be made by the Director within ten (10) years after the
11 close of the calendar year in which the same accrued;

12 2. ((B-)) Against a ((The)) taxpayer who has committed a fraud or misrepresented a
13 material fact; or

14 3. ((C-)) The taxpayer has waived this limitation in writing.

15 C. The Finance Director may enter into an agreement in writing with any person relating
16 to the liability of such person in respect of any tax, fee, or assessment imposed by this chapter
17 for any taxable period or periods.

18 Section 19. Section 5.48.160 of the Seattle Municipal Code (Ordinance 62662 § 18, as last
19 amended by Ordinance 117169 § 51) is further amended to read as follows:

20 **5.48.160 Remedy for nonpayment of tax – Tax and fees constitute debt.**

21 ((A-)) If any taxpayer fails to apply for a license, or make his or her returns, or to pay the
22 fee or tax therefor, or any part thereof, within fifteen (15) days after the same shall have

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1 become due, the Finance Director shall ascertain the amount of the fee or tax or installment
2 thereof due and shall notify such taxpayer thereof, who shall be liable therefor in any suit or
3 action by the City for the collection thereof.

4 B. The Finance Director shall also notify the City Attorney in writing of the name of such
5 delinquent taxpayer and the amount due from him or her, and the officer shall, with the
6 assistance of the Finance Director, collect the same by any appropriate means or by suit or
7 action in the name of the City.)

8 Any tax or fee due and unpaid and delinquent under this chapter, and all penalties thereon,
9 may be collected by civil action, which remedy shall be in addition to any and all other
10 existing remedies.

11 Any tax or fee due and unpaid under this chapter, and all interest and penalties thereon,
12 shall constitute a debt to The City of Seattle and may be collected by court proceedings in the
13 same manner as any other debt in like amount which remedy shall be in addition to all other
14 existing remedies.

15 Section 20. Section 5.48.170 of the Seattle Municipal Code (Ordinance 62662 § 19, as last
16 amended by Ordinance 117169 § 52) is further amended to read as follows:

17 **5.48.170 Appeals and Judicial Review.**

18 Any taxpayer aggrieved by the amount of the ~~((fee))~~ tax, fee, interest, or penalty
19 assessed ((found)) by the Finance Director ~~((to be required))~~ under the provisions of this
20 chapter, may file a written appeal ("petition") with the Office of the Hearing Examiner within
21 twenty (20) days from the date that the assessment notice was mailed to the taxpayer, or within
22 the period covered by any extension of said due date granted in writing by the Finance Director

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1 ((time such taxpayer was given notice of such amount and providing a copy of the notice of
2 appeal to the Director and the City Attorney)). The Finance Director may grant an extension of
3 the appeal period only if the taxpayer, within the twenty (20) day period to appeal, makes
4 written application showing good cause why an extension is necessary. A copy of the petition
5 must be provided by the taxpayer to the Finance Director and the City Attorney on or before
6 the date the petition is filed with the Hearing Examiner. If no such petition is filed with the
7 Hearing Examiner and provided to the Finance Director and City Attorney within the twenty
8 (20) day period, the assessment covered by the notice shall become final. The twenty (20) day
9 appeal period for an assessment takes precedence over section 5.48.150 regarding any
10 subsequent refund request.

11 B. The petition shall set forth the reasons why the assessment should be reversed or
12 modified and the amount of the tax, fee, interest, or penalties which the taxpayer believes to be
13 due. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer
14 thereof by mail. The hearing shall be conducted in accordance with the procedures for hearing
15 contested cases in the Seattle Administrative Code (SMC Chapter 3.02; Ordinance 102228).

16 C. The Finance Director's assessment ((determination)) appealed from shall be regarded
17 as prima facie correct. The Hearing Examiner may, by subpoena, require the attendance of any
18 person at the hearing, and may also require him or her to produce pertinent books and records.
19 Any person served with such a subpoena shall appear at the time and place therein stated and
20 produce the books and records required, if any, and shall testify truthfully under oath
21 administered by the Hearing Examiner as to any matter required of him or her pertinent to the
22 appeal; and it shall be unlawful for him or her to fail or refuse to do so.

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1 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain
2 the correct amount of the ~~((fee or))~~ tax, fee, interest, or penalty due if the Director's assessment
3 ~~((determination))~~ violates the terms of this chapter or is contrary to law. The decision of the
4 Hearing Examiner shall be final. The taxpayer and/or the Department of Finance may seek
5 review of the decision of the Hearing Examiner to the Superior Court of Washington in and for
6 King County within fourteen (14) days from the date of the decision.

7 Section 21. Section 5.48.190 of the Seattle Municipal Code (Ordinance 62662 § 21 as last
8 amended by Ordinance 102620 § 19) is incorporated with Section 5.48.030 and the section
9 repealed.

10 ~~((5.48.190 Display of licenses.))~~

11 Section 22. Section 5.48.200 of the Seattle Municipal Code (Ordinance 62662 § 22) is
12 amended to read as follows:

13 **5.48.200 Unlawful acts ~~((False statements))~~.**

14 It shall be unlawful for any person liable for the ~~((the))~~ tax or fee under this chapter to fail or
15 refuse to make application or secure ~~((return for))~~ a license or to pay the fee or tax ~~((or~~
16 ~~installment))~~ thereof when due, or for any person to make any false or fraudulent application or
17 return or any false statement or representation, or in connection with, any such application or
18 return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part
19 thereof, or for any person to fail to appear and/or testify in response to subpoena issued
20 pursuant to this chapter, or to testify falsely upon any investigation of the correctness of a
21 return, or upon the hearing of any appeal, or in any manner to hinder or delay the City or any
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1 of its officers in carrying out the provisions of this chapter. Remedial action by the City may
2 include fines as provided for in Section 5.48.210.

3 Section 23. Section 5.48.210 of the Seattle Municipal Code (Ordinance 62662 § 24, as last
4 amended by Ordinance 117169 § 54) is further amended to read as follows:

5 **5.48.210 Violation -- Penalty.**

6 A. ~~A~~ ((Any)) person ~~who violates or fails~~ ((violating or failing)) to comply with any ((of

7 the)) provision((s)) of this chapter or any ((lawful)) rule, ((or)) regulation or order of the

8 ((adopted by the Finance)) Director is ((pursuant to this chapter, shall be deemed)) guilty of a

9 misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle

10 Municipal Code, except that absolute liability shall be imposed for such a violation or failure

11 to comply and none of the mental states described in Section 12A.04.030 of the Seattle

12 Municipal Code need be proved. A corporation which violates or fails to comply with any

13 provision of this chapter or any rule, regulation or order of the Director shall be punished by a

14 fine of not more than One Thousand (\$1,000). Each day of violation or failure to comply is a

15 separate offense. ((and, upon conviction thereof, shall be punished by a fine in any sum not to

16 exceed Three Hundred Dollars (\$300.00), or by imprisonment in the City Jail for a term not

17 exceeding ninety (90) days, or by both such fine and imprisonment.))

18 B. Prosecution for a criminal offense shall not be commenced more than four (4) years
19 after the violation or failure to comply.

20 Section 24. There is added a new Section 5.48.220 to Chapter 5.48, of the Seattle
21 Municipal Code as follows:

22 **5.48.220 Fees for copies and research.**

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The Finance Director may charge a fee:

1
2 A. For making copies of books and records as authorized by Ordinance 100501, as now
3 existing or hereafter amended or supplemented;

4 B. For compiling statistics and conducting special research as authorized in a fee schedule
5 approved by the City Council by resolution from time-to-time to reimburse the City's cost
6 therefor; and

7 C. For the bulk sale of City forms and printed brochures and other publications in an
8 amount equal to the cost of preparing, reproducing and distributing them as determined by the
9 Director by rule adopted pursuant to the Administrative Code, Sections 3.02.030 through
10 3.02.070.

11 Section 25. Section 5.48.250 of the Seattle Municipal Code (Ordinance 117401 § 2) is
12 incorporated with 5.48.070 and the section is repealed.

13 ~~((5.48.250) Bad Debt deduction—cellular telephone service companies,))~~

14 Section 26. The provisions of this ordinance are declared to be separate and severable.
15 The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this
16 ordinance, or the invalidity of the application thereof to any person or circumstance shall not
17 affect the validity of the remainder of this ordinance, or the validity of its application to other
18 persons or circumstances.

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1 Section 27. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 PASSED by the City Council of the City of Seattle this _____ day of
5 _____, 1996, and signed by me in open session in authentication of its passage this
6 _____ day of _____, 1996.

7
8 _____
9 President _____ of the City Council
10 Approved this _____ day of _____, 1996.

11 _____
12 Mayor
13 Filed by me this _____ day of _____, 1996.

14 _____
15 City Clerk

16
17 (Seal)
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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL, WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Martina Chase

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

September 10, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Finance

SUBJECT: AN ORDINANCE relating to occupational utility taxes; amending Seattle Municipal Code Sections 5.48.010,.020,.030,.050,.055,.060,.070,.080,.090,.100,.110,.120,.140,.150,.160,.10,.200, and .210; adding Sections 5.48.095,.135, and .220; repealing Sections 5.48.130,.190, and .250.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Leda Young at 233-7268.

Sincerely,

Norman B. Rice
Mayor

by

Leda Young for

TOM TIERNEY
Director

h:\admin\legis\law\trs\young13

Enclosure



*9/14/96
OK as to
form only in
draft. ML*

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STATE OF WASHINGTON - KING COUNTY

73474
City of Seattle, City Clerk

-ss.

No. ORDINANCE IN

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:ORD 118315

was published on

10/25/96

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

Subscribed and sworn to before me on

10/25/96

Notary Public for the State of Washington,
residing in Seattle

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