Ordinance No. 122564

Council Bill No. 116061

AN ORDINANCE related to taxation of businesses; creating a new Chapter 5.46 of the Seattle Municipal Code; and amending sections 3.02.125, 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

CF No.

Date Introduced: 10-22-07	
Date 1st Referred: 10-22-07	To: (committee) Budget
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 11-19-07	Full Council Vote: 7-2
Date Presented to Mayor: 11-20-07	Date Approved: 11-26-2007
Date Returned to City Clerk: 11-26-2007	Date Published: 19 T.O. ___ F.T. ✓
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: McIver by ⊕
Councilmember

Committee Action:

11-9-07 Budget RM, SC, RC, JD, JG, NL, JR Pass
DD, PS Do Not Pass

11-19-07 Full Council: Pass 7-2
(No: Della, Steinbrueck

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review | OMP Review | City Clerk Review | Electronic Copy Loaded | Indexed

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 24, 2007

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am transmitting the attached proposed Council Bill that establishes a new square footage business tax to partially offset the anticipated loss in Business and Occupation (B&O) tax revenue that will begin on January 1, 2008 as a result of implementation of RCW 35.102.130. The proposed tax is estimated to recover most of the lost revenue but is designed to ensure that no business will pay more than it pays under the City's existing (2007) tax law.

In 2003, the Legislature passed HB 2030 (now codified as RCW 35.102.130) with the stated intent of enhancing municipal B&O tax fairness and uniformity. The Bill required Washington cities that impose a B&O tax to develop a model ordinance and adopt HB 2030's mandatory provisions, which Seattle has done. Additionally, HB 2030 requires all sales of tangible personal property to be allocated to the delivery location and the use of a two-factor formula to determine what share of a business' total service income is subject to a gross receipts tax, effective January 1, 2008. According to a study conducted by the Washington State Department of Revenue in 2004, the City is expected to lose approximately $15.6 million in B&O tax revenue due to these new allocation and apportionment provisions which, adjusted for inflation and tax base growth, equates to a loss of approximately $21.9 million in B&O revenue in 2008.

The attached proposed Bill provides for the implementation of a square footage business tax to become effective January 1, 2008 to partially offset of lost B&O revenue. This revenue is essential to maintain basic City services and to address our commitments to add police officers, improve transportation, and reduce homelessness. The only businesses that will pay the square footage tax are those that are affected by the changes imposed by the new state law. We have structured the tax so that no business will pay more tax on its activities than it would have paid under the City's current tax law.

Thank you for you consideration of this legislation. Should you have any questions in this regard, please contact Dwight Dively at 684-5212, or Mel McDonald at 233-0071.

Sincerely,

GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
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ORDINANCE 122564

AN ORDINANCE related to taxation of businesses; creating a new Chapter 5.46 of the Seattle Municipal Code; and amending sections 3.02.125, 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

WHEREAS, the State of Washington grants cities the power to license businesses for the purpose of raising revenue; and

WHEREAS, the City of Seattle has, since 1932, imposed a business license tax (also known as a business and occupation (B&O) tax or gross receipts tax) on persons engaging in business in Seattle; and

WHEREAS, in 2003, the Legislature passed HB 2030, now codified as Chapter 35.102 RCW, which changed how cities impose B&O taxes; and

WHEREAS, RCW 35.102.130, which becomes effective on January 1, 2008, requires cities to change how B&O taxes are calculated for certain types of businesses; and

WHEREAS, in 2005, at the Legislature's request, the Washington Department of Revenue completed a study of the effects of RCW 35.102.130, which estimated that the City of Seattle would lose about $15.6 million in revenue as a result of the new provisions; and

WHEREAS, updating this estimate to reflect inflation and growth in the tax base suggests the City of Seattle will lose about $21.9 million in revenue in 2008; and

WHEREAS, RCW 35.102.1301 states that the Legislature's intent in having the Department of Revenue conduct a study was "to allow local jurisdictions to anticipate and appropriately address any potential adverse revenue impacts" from the change in state law; and

WHEREAS, the Mayor and City Council have reviewed multi-year forecasts of the effects of RCW 35.102.130 on the City's General Fund budget and believe the resulting revenue loss would preclude the City from proceeding with planned increases in police staffing, improvements in transportation infrastructure, and support for the 10-Year Plan to End Homelessness; and

WHEREAS, other Washington cities use different forms and combinations of business taxation, including taxes measured by the space used by businesses; and

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WHEREAS, in imposing a new complementary tax under this ordinance, the Mayor and City Council seek to ensure that no business will pay more total tax than it would have under existing law; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective January 1, 2008, a new Chapter 5.46, "Square Footage Tax," is added to Title 5 of the Seattle Municipal Code as follows:

5.46.010 Administrative Provisions.

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

5.46.020 Definitions.

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter:

A. "Business floor space" means rentable square feet of an office or place of business and includes the proportionate share of the building service areas such as lobbies, corridors and other common areas in a building. The rentable square footage shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building. Business floor space does not include vertical penetrations through the building such as stairs, elevators, or heating, ventilation, air conditioning, utility, or telephone systems. Business floor space does not include other floor

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space as defined in subsection B below. If the business floor space is owned by the taxpayer, the business floor space will be calculated in the same manner as above and as if the area was rented.

B. "Other floor space" means rentable square feet used for dining areas, exercise areas, or warehouse space.

1. "Dining area" means any space used exclusively by employees for the purpose of purchasing, preparing, or consuming meals.

2. "Exercise area" means any space used exclusively by employees for the purpose of physical exercise not related to an employee's normal job duties.

3. "Warehouse space" means any space used exclusively for the storage of merchandise or commodities.

Other floor space will be measured in the same manner as business floor space whether owned or rented.

5.46.030 Tax Imposed—Measure of the Tax.

A. A square footage tax for the act or privilege of engaging in business activities within the city is hereby levied upon and shall be collected from every person that leases, owns, occupies or otherwise maintains an office or place of business within the city. The tax shall be measured by the number of square feet of business floor space and other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city during the reporting period.

B. The amount of the tax due shall be equal to the sum of the number of square feet of business floor space for each office or place of business leased, owned, occupied or otherwise

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maintained within the city multiplied by the rate of $0.39 quarterly ($1.56 annually), and the number of square feet of other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city multiplied by the rate of $0.13 quarterly ($.52 annually). The Director will adjust the square footage tax rate annually for inflation as follows: the tax rate for a year will be equal to the tax rate for the previous year increased (or decreased) by the percentage change in the annual Seattle-Tacoma-Bremerton, WA consumer price index for all urban consumers (CPI-U) for the previous year.

C. Persons with more than one office or place of business must include all business floor space and other floor space for all locations. When a person rents space to another person, the person occupying the rental space is responsible for the square footage tax on that rental space only if the renter has exclusive right of possession in the space as against the landlord. Space rented for the storage of goods in a warehouse where no walls separate the goods, and where the exclusive right of possession in the space is not held by the person to whom the space is rented, shall be included in the other floor space of the person that operates the warehouse business, and not by the business renting the warehouse space.

D. Persons whose business floor space, other floor space, or period of occupancy changes during a reporting period shall prorate the business floor space or other floor space for the reporting period. A change in the period of occupancy during the reporting period shall be prorated using a ratio of the number of days of occupancy during the reporting period compared to the total number of days within the reporting period. If the amount of business floor space or other floor space changes during the reporting period, floor space for the period shall be

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computed as a weighted average of the rentable space occupied during different segments of the reporting period. Weighting will be based upon the percentage of the reporting period that a given amount of space was leased, owned, occupied, or otherwise maintained within the city.

E. Any person required to pay the square footage tax imposed in this chapter that also pays the business license tax as imposed in SMC 5.45.050 may take a credit against the square footage tax computed as follows:

1. The credit is equal to the square footage tax owed for the reporting period multiplied by the ratio of adjusted gross income derived from the Seattle business location(s) for the reporting period to the total gross income derived from the Seattle business location(s) for the reporting period.

2. For the purpose of this section, "total gross income derived from the Seattle business location(s)" is equal to the total gross income derived from the business activities rendered by, generated from, or attributable to the place(s) of business located within the city.

3. For the purpose of this section, "adjusted gross income derived from the Seattle business location(s)" shall include total gross income derived from the Seattle business location(s) less:

(a) income derived from the sales of tangible personal property and retail services by the Seattle business location(s) delivered to a location within the State of Washington where no local jurisdiction imposes an eligible gross receipts tax; and

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(b) the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.080 less the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.076 and SMC 5.45.081.

When the change in income calculated in subsection 3(b) is a negative number, the amount so calculated shall reduce the amount calculated in subsection 3(a); however, if the sum of the totals calculated under subsections 3(a) and 3(b) is a negative number, then the adjusted gross income derived from the Seattle business location(s) shall be equal to the total gross income derived from the Seattle business location(s).

4. In computing the tax credit, any gross receipts from manufacturing, extracting, and printing, and also subject to a selling tax (such as retailing and wholesaling) according to the Multiple Activity Tax Credit (SMC 5.45.070), shall be included in the gross income and the adjusted gross income only once.

5.46.040 Square footage tax —When due.

The tax imposed by this chapter shall be due and payable in accordance with SMC 5.55.040 in the same manner as the business license tax under SMC 5.45. Taxpayers filing their business license tax on a quarterly basis shall file the square footage tax on a quarterly basis and taxpayers filing their business license tax on an annual basis shall file the square footage tax on

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an annual basis on forms prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the square footage tax at the same time as they file their final business license tax return.

5.46.050 Exemptions and deductions from the square footage tax.

A. The following persons are exempt from the square footage tax:

1. Any person qualifying under the tax threshold as provided in SMC 5.55.040 D 1 shall be exempt from the square footage tax in the year which they qualify under the tax threshold.

2. Persons that are exempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:

(a) Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per SMC 5.45;

(b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440;

(c) Businesses that distribute or sell only liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120; and

(d) Banks, whose income is apportioned according to WAC Chapter 458-28.

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B. Persons owing no business license tax pursuant to SMC 5.45.050 due to exemptions or deductions contained in SMC 5.45.090 or SMC 5.45.100 (with the exception of subsection SMC 5.45.100 W) may take a credit against the square footage tax for the total amount of the tax.

C. The portion of the business floor space and other floor space that is used exclusively to administer and manage other offices or places of business outside of Seattle shall be considered headquarters activities and shall not be included in the square footage tax calculation.

D. Persons taxable under the utility tax pursuant SMC 5.48 are exempt from the square footage tax provided they generate no gross income from activities taxable under SMC 5.45.050. If taxpayers subject to the utility tax generate gross income from activities taxable under SMC 5.45.050, only the floor space used in generating such gross income will be subject to the square footage tax provisions of this chapter.

5.46.060 Maximum Square Footage Tax Credit

After application of the square footage tax credit provided in SMC 5.46.030 E, if the gross receipts business license tax assessed under SMC Chapter 5.45 and the square footage tax assessed under SMC Chapter 5.46 combine to result in a tax increase for the taxpayer when compared to the amount of tax that would have been due under the requirements of SMC Chapter 5.45 in effect prior to the implementation of RCW 35.102.130 on January 1, 2008, then an additional credit may be taken against the square footage tax for the amount of such tax increase.

5.46.070 Tax In Addition To Other License Fees Or Taxes.

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The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

Section 2. Effective January 1, 2008, Section 5.30.010 of the Seattle Municipal Code is amended as follows:

5.30.010 Definition provisions.

The definitions contained in this chapter shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Taxes), 5.46 (Square Footage Tax), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent as expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include both genders.

Section 3. Effective January 1, 2008, Subsection B of 5.30.060 of the Seattle Municipal Code is amended as follows:

5.30.060 Definitions, T-Z.

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B. "Taxpayer" means any "person," as herein defined, required by SMC Chapter 5.55 to have a business license, or liable for any license, tax or fee, or for the collection of any tax or fee,

under SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hours Tax), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

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Section 4. Effective January 1, 2008, Section 5.55.010 of the Seattle Municipal Code is amended as follows:

5.55.010 Application of chapter stated.

Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 ((~~11~~)) (Utility Tax), and 5.52 (Gambling Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

Section 5. Effective January 1, 2008, Subsection 5.55.040 A of the Seattle Municipal Code is amended as follows:

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

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax),

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5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(((~~(A)(2)~~))) A2 and (((~~(B)(2)~~))) B2 for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

***

Section 6. Effective January 1, 2008, Subsection 5.55.060 A of the Seattle Municipal Code is amended as follows:

5.55.060 Records to be preserved – Examination – Inspection – Search Warrants – Estoppel to question assessments.

A. Every person liable for any fee or tax imposed by this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All places of business, books, records, papers, invoices, ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or

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examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

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Section 7. Effective January 1, 2008, Subsection 5.55.150 E of the Seattle Municipal Code is amended as follows:

5.55.150 Appeal to the hearing examiner.

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E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this chapter, or SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 8. Effective January 1, 2008, Section 5.55.165 of the Seattle Municipal Code is amended as follows:

5.55.165 Director of Finance to make rules.

The Director of Finance shall have the power and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, 5.52 or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 9. Effective January 1, 2008, Subsections 5.55.220 A and B of the Seattle Municipal Code are amended as follows:

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5.55.220 Unlawful Actions – Violation – Penalties.

A. It shall be unlawful for any person liable for amounts due under this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52, or any lawful rule or regulation adopted by the Director;

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

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

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

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52;

6. To fail to appear or testify in response to a subpoena issued pursuant to SMC 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48 and 5.52;

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

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8. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52.

B. Each violation of or failure to comply with the provisions of this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52 shall constitute a separate offense. Any person who commits an act defined in subsection A of this section is guilty of a gross misdemeanor, punishable in accordance with SMC 12A.02.070. The provisions of chapters 12A.02 and 12A.04((~~5~~)) of the Seattle Municipal Code apply to the offenses defined in subsection A of this section except that liability is absolute and none of the mental states described in SMC 12A.04.030 need be proved.

***

Section 10. Effective January 1, 2008, Subsection 5.55.230 A of the Seattle Municipal Code is amended as follows:

5.55.230 Suspension or revocation of business license.

A. The Director, or his or her designee, shall have the power and authority to suspend or revoke any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such licensee in writing by certified mail of the suspension or revocation of his or her license and the grounds therefor. Any license issued under this chapter may be suspended or revoked based on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

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2. The licensee has failed to comply with any provisions of this chapter.

3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

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Section 11. Effective January 1, 2008, Subsection 3.02.125 A of the Seattle Municipal Code is amended as follows:

3.02.125 Hearing Examiner filing fees.

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

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Basis for Hearing	Fee
Admission Tax Deficiency (Ch. 5.40)	$50
Admission Tax, Revocation of Exemption (Sec. 5.40.085)	No fee
Ballard Avenue Landmark District (Ch. 25.16)	50
Business License Tax Deficiency (Ch. 5.45)	50
Cable Television Ordinance (Ch. 21.60)	No fee
Columbia City Landmark District (Ch. 25.20)	50
Commercial Parking Tax Deficiency (Ch. 5.35)	50
Design Decision in Multiple Residence - Mixed Density Zone (Ch. 24.38)	50
Employee Hours Tax (Ch. 5.37)	50
Fair Employment Practices Ordinance (Ch. 14.04)	No fee
Floating Home Moorages (Ch. 7.20)	50
/petitioner; maximum fee	150
Gambling Tax Deficiency (Ch. 5.52)	50
Grading Ordinance (Title 22, Subtitle VIII)	50
Harvard/Belmont Landmark District (Ch. 25.22)	50
Housing Code (Ch. 22.206)	50
Land Use Code Enforcement (Ch. 23.90)	50
Landmark Preservation Controls and Incentives (Sec. 25.12.530)	No fee
Landmarks Preservation (Sec. 25.12.740 and Sec. 25.12.835)	50
License Code (Title 6, Subtitle I)	50
Master Use Permit (Ch. 23.76)	50
Noise Ordinance (Ch. 25.08)	50
Open Housing Ordinance (Ch. 14.08)	No fee

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Pike Place Market Historical District (Ch. 25.24)	50
Pioneer Square Minimum Maintenance Ordinance (Ch. 25.28, Subchapter II)	50
Planned Unit Development (Ch. 24.66)	50
Plumbing Code (Ch. 20.16, Uniform Plumbing Code, Ord. 116594)	50
Property Tax Exemption, Cancellation of Exemption (Ch. 5.72)	50
Radiofrequency Radiation Ordinance (Ch. 25.10)	50
Refund Anticipation Loan (Ch. 7.26)	5
Relocation Assistance (Ch. 20.84)	No fee
Seizure of Property; Controlled Substances (RCW 69.50.505(e))	No fee
Special Review Districts (Ch. 23.66)	50
Square Footage Tax (Ch. 5.46)	50
State Environmental Policy Act (SEPA) (when not a Master Use Permit component) (Ch. 25.04)	50
Utility tax (Ch. 5.48)	50
Zoning Map Amendments (Rezones)(Ch. 23.34)	No fee
Zoning Rulings and Interpretations (Ch. 23.88)	50

* * *

Section 12. Severability. If any part, provision or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 13. Pursuant to RCW 35.21.706, this ordinance is subject to the referendum procedure specified in that state law. A referendum petition may be filed within seven days of the passage of the ordinance with the filing officer of the City, which is hereby designated to be

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the City Clerk, located on the third floor of City Hall, 600 Fourth Avenue, Seattle, Washington. Within ten days of filing the petition, the City Clerk shall confer with the petitioner concerning the form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the City , as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. Signed petition forms that are submitted timely to the City Clerk shall be transmitted to the King County Director of Records and Elections who shall verify the sufficiency of the signatures on the petition and report to the City Clerk. If sufficient valid signatures are properly submitted, the City Clerk shall so inform the City Council, which shall submit the referendum measure to the voters at a special election to be held on the next City election date, as provided in RCW 29A.04.330, that occurs not less than forty-five days after the county's report of sufficiency is received by the City Clerk, unless a general election will occur within ninety days of receipt of that report, in which event the proposed ordinance will be submitted at the general election. State law, RCW 35.21.706, provides that the referendum procedure in this section is exclusive and that this ordinance is not subject to any other referendum or initiative process.

Section 14. Any act pursuant to the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 19th day of November, 2007, and signed by me in open session in authentication of its passage this 19th day of November, 2007.

President _____ of the City Council

Approved by me this 26th day of November, 2007.

Gregory J. Nickels, Mayor

Filed by me this 26th day of November, 2007.

City Clerk

(Seal)

OIS CITY CLERK

Form revised October 16, 2006

2008 BUDGET LEGISLATION FISCAL NOTE

Note: This fiscal note template may be used for most pieces of budget legislation. Certain legislation submitted with the budget (e.g., the Supplemental Ordinance, Drug Forfeiture Legislation, Money Laundering Forfeiture Legislation, etc.), require that the standard fiscal note template be used with some modification. Please work with your Budget Analyst so that your fiscal note provides the information that is required during the budget process. The standard template can be found on the Legislation Tracking Page on the inweb at http://inweb/legislationtracking/

Department:	Contact Person/Phone:	DOF Analyst/Phone:
DOF/DEA	Mel McDonald 233-0071	Dwight Dively 4-5200

Legislation Title: AN ORDINANCE related to taxation of businesses; creating a new Chapter 5.46 of the Seattle Municipal Code; and amending sections 3.02.125, 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

- **Summary of the Legislation:** This legislation will impose a square footage tax, similar to the one Bellevue has used for many years, in order to mitigate the $21.9 million in Business & Occupation tax revenue Seattle will lose in 2008 due to the passage of HB 2030 (RCW 35.102.130). The tax has been calculated in such a way that no business will pay more taxes than they do under existing (2007) tax law.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

In 2003, the State Legislature passed HB 2030 (now codified as RCW 35.102.130) that changes how cities can impose their Business and Occupation (B&O) taxes on certain types of business activities. Among the changes introduced by HB 2030 were new procedures for the allocation and apportionment of business income, which take effect on January 1, 2008.

Using tax data for 2004, the State Department of Revenue estimated the new allocation and apportionment procedures would reduce B&O revenue for cities by about $23.3 million, with Seattle losing about $15.6 million. Projecting these results to 2008 means Seattle will lose about $21.9 million in B&O revenue.

In response to the expected loss of $21.9 million in B&O tax revenue resulting from the imposition of HB 2030's apportionment and allocation procedures, the Mayor has proposed a new floor area, or square footage, tax (similar to what Bellevue has used for many years) that will be implemented on January 1, 2008. The only businesses that will

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pay the square footage business tax are those that receive a tax reduction as a result of the new allocation and apportionment procedures. The tax is structured so that no business will pay more tax on its activities than would have been the case under existing (2007) tax law. Some businesses will pay the same tax as they would under current law, others will pay less, but none will pay more.

Floor area will be taxed at two different rates. Business floor space, which includes office, retail, and production space, will be taxed at 39 cents per square foot per quarter. Other floor space, such as warehouse, storage, dining, and exercise space, will be taxed at 13 cents per square foot per quarter. The tax rates will be adjusted annually for inflation.

To determine the square footage business tax rate, an estimate of the city's taxable floor area was developed using commercial building data from the King County Assessor and other sources, along with employment, and tax revenue data from other sources. The tax rate was set at a level to recover the $21.9 million revenue loss estimated by the Department of Revenue. However, the provision that no business will pay more in tax under the new law than under current law results in a reduction in revenue to a level below full recovery.

Any business that pays both the gross receipts B&O tax and the square footage business tax may take a credit against the square footage business tax for the amount of gross receipts tax paid. To use the credit, a business first computes the square footage business tax it would owe on 100% of its floor area, and then multiplies that figure by the credit. The credit is determined by computing the total gross income derived from the Seattle business locations less the gross income derived from the Seattle business locations that is exempted from taxation by HB 2030, and then dividing that figure by the total gross income derived from the Seattle business locations. In simple terms, if a Seattle business receives a 20% reduction in its gross receipts tax from HB 2030, 20% of its floor area will be subject to the square footage business tax.

To ensure that no business faces a tax increase due to the implementation of the square footage business tax, a maximum square footage tax credit is provided. To use this credit, a business computes its tax under both the new post-January 1, 2008 tax law and the old pre-January 1, 2008 tax law. If the tax due is higher under the new law, the business is allowed to take a credit for the difference between the tax computed under the new law and the tax computed under the old law.

- *Please check one of the following*:

DIS CITY CLERK

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

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

Summary of Changes to Revenue Generated Resulting From This Legislation

Fee Type	2007 Adopted	2008 Proposed	Total of New Revenue Proposed
Square Footage Tax		**$18,600,000**	**$18,600,000**
Total Fees and Charges Resulting From Passage of This Ordinance		**$18,600,000**	**$18,600,000**

Anticipated Revenue/Reimbursement: (For budget legislation that raises fees, please provide detail on each fee that is being raised, when it was last raised, how the proposed fee compares with similar fees in the region, etc.)

Fund Name and Number	Department	Revenue Source	2008 Total Program Revenue
General Fund 00100	**Executive Admin.**	**B&O taxes**	**$16,700,000**
Parks & Recreation Fund 10200	**Parks & Recreation**	**B&O taxes**	**$1,900,000**
TOTAL			**$18,600,000.**

Notes:

- What is the financial cost of not implementing this legislation? *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement*

CITY CLERK

of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented)

The City would not collect $18.6 million in revenue.

- How will increases in rates or fees resulting from this legislation affect individual ratepayers? The tax is structured so that no business will pay more tax on its activities than would have been the case under existing (2007) tax law. Some businesses will pay the same tax as they would under current law, others will pay less, but none will pay more.

- What are the possible alternatives to the legislation that could achieve the same or similar objectives? *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

A severe reduction in City programs and services.

- Is the legislation subject to public hearing requirements? *(If yes, what public hearings have been held to date)*

No

- Other Issues (*including long-term implications of the legislation*):

BTS CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

217889 No.
CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CT:ORDINANCE 122564

was published on

11/28/07

The amount of the fee charged for the foregoing publication is the sum of $ 976.50, which amount has been paid in full.

JENNIFER A. PATZER
COMMISSION EXPIRES
NOTARY
PUBLIC
OCT. 24, 2011
STATE OF WASHINGTON

Subscribed and sworn to before me on
11/28/07

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 122564

AN ORDINANCE related to taxation of businesses; creating a new Chapter 5.46 of the Seattle Municipal Code; and amending sections 3.02.125, 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

WHEREAS, the State of Washington grants cities the power to license businesses for the purpose of raising revenue; and

WHEREAS, the City of Seattle has, since 1932, imposed a business license tax (also known as a business and occupation (B&O) tax or gross receipts tax) on persons engaging in business in Seattle; and

WHEREAS, in 2003, the Legislature passed HB 2030, now codified as Chapter 35.102 RCW, which changed how cities impose B&O taxes; and

WHEREAS, RCW 35.102.130, which becomes effective on January 1, 2008, requires cities to change how B&O taxes are calculated for certain types of businesses; and

WHEREAS, in 2005, at the Legislature's request, the Washington Department of Revenue completed a study of the effects of RCW 35.102.130, which estimated that the City of Seattle would lose about $15.6 million in revenue as a result of the new provisions; and

WHEREAS, updating this estimate to reflect inflation and growth in the tax base suggests the City of Seattle will lose about $21.9 million in revenue in 2008; and

WHEREAS, RCW 35.102.1301 states that the Legislature's intent in having the Department of Revenue conduct a study was "to allow local jurisdictions to anticipate and appropriately address any potential adverse revenue impacts" from the change in state law; and

WHEREAS, the Mayor and City Council have reviewed multi-year forecasts of the effects of RCW 35.102.130 on the City's General Fund budget and believe the resulting revenue loss would preclude the City from proceeding with planned increases in police staffing, improvements in transportation infrastructure, and support for the 10-Year Plan to End Homelessness; and

WHEREAS, other Washington cities use different forms and combinations of business taxation, including taxes measured by the space used by businesses; and

WHEREAS, in imposing a new complementary tax under this ordinance, the Mayor and City Council seek to ensure that no business will pay more total tax than it would have under existing law; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective January 1, 2008, a new Chapter 5.46, "Square Footage Tax," is added to Title 5 of the Seattle Municipal Code as follows:

5.46.010 Administrative Provisions.

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

5.46.020 Definitions.

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter:

A. "Business floor space" means rentable square feet of an office or place of business and includes the proportionate share of the building service areas such as lobbies, corridors and other common areas in a building. The rentable square footage shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building. Business floor space does not include vertical penetrations through the building such as stairs, elevators, or heating, ventilation, air conditioning, utility, or telephone systems. Business floor space does not include other floor space as defined in subsection B below. If the business floor space is owned by the taxpayer, the business floor space will be calculated in the same manner as above and as if the area was rented.

B. "Other floor space" means rentable square feet used for dining areas, exercise areas, or warehouse space.

1. "Dining area" means any space used exclusively by employees for the purpose of purchasing, preparing, or consuming meals.

2. "Exercise area" means any space used exclusively by employees for the purpose of physical exercise not related to an employee's normal job duties.

3. "Warehouse space" means any space used exclusively for the storage of merchandise or commodities.

Other floor space will be measured in the same manner as business floor space whether owned or rented.

5.46.030 Tax Imposed—Measure of the Tax.

A. A square footage tax for the act or privilege of engaging in business activities within the city is hereby levied upon and shall be collected from every person that leases, owns, occupies or otherwise maintains an office or place of business within the city. The tax shall be measured by the number of square feet of business floor space and other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city during the reporting period.

B. The amount of the tax due shall be equal to the sum of the number of square feet of business floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city multiplied by the rate of $0.39 quarterly ($1.56 annually), and the number of square feet of other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city multiplied by the rate of $0.13 quarterly ($.52 annually). The Director will adjust the square footage tax rate annually for inflation as follows: the tax rate for a year will be equal to the tax rate for the previous year increased (or decreased) by the percentage change in the annual Seattle-Tacoma-Bremerton, WA consumer price index for all urban consumers (CPI-U) for the previous year.

C. Persons with more than one office or place of business must include all business floor space and other floor space for all locations. When a person rents space to another person, the person occupying the rental space is responsible for the square footage tax on that rental space only if the renter has exclusive right of possession in the space as against the landlord. Space rented for the storage of goods in a warehouse where no walls separate the goods, and where the exclusive right of possession in the space is not held by the person to whom the space is rented, shall be included in the other floor space of the person that operates the warehouse business, and not by the business renting the warehouse space.

D. Persons whose business floor space, other floor space, or period of occupancy changes during a reporting period shall prorate the business floor space or other floor space for the reporting period. A change in the period of occupancy during the reporting period shall be prorated using a ratio of the number of days of occupancy during the reporting period compared to the total number of days within the reporting period. If the amount of business floor space or other floor space changes during the reporting period, floor space for the period shall be computed as a weighted average of the rentable space occupied during different segments of the reporting period. Weighting will be based upon the percentage of the reporting period that a given amount of space was leased, owned, occupied, or otherwise maintained within the city.

E. Any person required to pay the square footage tax imposed in this chapter that also pays the business license tax as imposed in SMC 5.45.050 may take a credit against the square footage tax computed as follows:

1. The credit is equal to the square footage tax owed for the reporting period multiplied by the ratio of adjusted gross income derived from the Seattle business location(s) for the reporting period to the total gross income derived from the Seattle business location(s) for the reporting period.

2. For the purpose of this section, "total gross income derived from the Seattle business location(s)" is equal to the total gross income derived from the business activities rendered by, generated from, or attributable to the place(s) of business located within the city.

3. For the purpose of this section, "adjusted gross income derived from the Seattle business location(s)" shall include total gross income derived from the Seattle business location(s) less:

(a) income derived from the sales of tangible personal property and retail services by the Seattle business location(s) delivered to a location within the State of Washington where no local jurisdiction imposes an eligible gross receipts tax; and

(b) the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.080 less the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.076 and SMC 5.45.081.

When the change in income calculated in subsection 3(b) is a negative number, the amount so calculated shall reduce the amount calculated in subsection 3(a); however, if the sum of the totals calculated under subsections 3(a) and 3(b) is a negative number, then the adjusted gross income derived from the Seattle business location(s) shall be equal to the total gross income derived from the Seattle business location(s).

4. In computing the tax credit, any gross receipts from manufacturing, extracting, and printing, and also subject to a selling tax (such as retailing and wholesaling) according to the Multiple Activity Tax Credit (SMC 5.45.070), shall be included in the gross income and the adjusted gross income only once.

5.46.040 Square footage tax —When due.

The tax imposed by this chapter shall be due and payable in accordance with SMC 5.55.040 in the same manner as the business license tax under SMC 5.45. Taxpayers filing their business license tax on a quarterly basis shall file the square footage tax on a quarterly basis and taxpayers filing their business license tax on an annual basis shall file the square footage tax on an annual basis on forms prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the square footage tax at the same time as they file their final business license tax return.

5.46.050 xemptions and deductions from the square footage tax.

A. The following persons are exempt from the square footage tax:

1. Any person qualifying under the tax threshold as provided in SMC 5.55.040 D 1 shall be exempt from the square footage tax in the year which they qualify under the tax threshold.

2. Persons that are exempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:

(a) Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per SMC 5.45;

(b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440;

(c) Businesses that distribute or sell only liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120; and

(d) Banks, whose income is apportioned according to WAC Chapter 458-28.

B. Persons owing no business license tax pursuant to SMC 5.45.050 due to exemptions or deductions contained in SMC 5.45.090 or SMC 5.45.100 (with the exception of subsection SMC 5.45.100 W) may take a credit against the square footage tax for the total amount of the tax.

C. The portion of the business floor space and other floor space that is used exclusively to administer and manage other offices or places of business outside of Seattle shall be considered headquarters activities and shall not be included in the square footage tax calculation.

D. Persons taxable under the utility tax pursuant SMC 5.48 are exempt from the square footage tax provided they generate no gross income from activities taxable under SMC 5.45.050. If taxpayers subject to the utility tax generate gross income from activities taxable under SMC 5.45.050, only the floor space used in generating such gross income will be subject to the square footage tax provisions of this chapter.

5.46.060 Maximum Square Footage Tax Credit

After application of the square footage tax credit provided in SMC 5.46.030 E, if the gross receipts business license tax assessed under SMC Chapter 5.45 and the square footage tax assessed under SMC Chapter 5.46 combine to result in a tax increase for the taxpayer when compared to the amount of tax that would have been due under the requirements of SMC Chapter 5.45 in effect prior to the implementation of RCW 35.102.130 on January 1, 2008, then an additional credit may be taken against the square footage tax for the amount of such tax increase.

5.46.070 Tax In Addition To Other License Fees Or Taxes.

The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

Section 2. Effective January 1, 2008, Section 5.30.010 of the Seattle Municipal Code is amended as follows:

5.30.010 Definition provisions.

The definitions contained in this chapter shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Taxes), 5.46 (Square Footage Tax), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent as expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include both genders.

Section 3. Effective January 1, 2008, Subsection B of 5.30.060 of the Seattle Municipal Code is amended as follows:

5.30.060 Definitions, T-Z.

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B. "Taxpayer" means any "person," as herein defined, required by SMC Chapter 5.55 to have a business license, or liable for any license, tax or fee, or for the collection of any tax or fee, under SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hours Tax), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

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Section 4. Effective January 1, 2008, Section 5.55.010 of the Seattle Municipal Code is amended as follows:

5.55.010 Application of chapter stated.

Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 ((~~11~~)) (Utility Tax), and 5.52 (Gambling Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

Section 5. Effective January 1, 2008, Subsection 5.55.040 A of the Seattle Municipal Code is amended as follows:

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

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(((~~A)(2)~~)) A2 and (((~~B)(2)~~))) B2 for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

***

Section 6. Effective January 1, 2008, Subsection 5.55.060 A of the Seattle Municipal Code is amended as follows:

5.55.060 Records to be preserved – Examination – Inspection – Search Warrants – Estoppel to question assessments.

A. Every person liable for any fee or tax imposed by this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All places of business, books, records, papers, invoices, ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

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Section 7. Effective January 1, 2008, Subsection 5.55.150 E of the Seattle Municipal Code is amended as follows:

5.55.150 Appeal to the hearing examiner.

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E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this chapter, or SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 8. Effective January 1, 2008, Section 5.55.165 of the Seattle Municipal Code is amended as follows:

5.55.165 Director of Finance to make rules.

The Director of Finance shall have the power and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, 5.52 or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 9. Effective January 1, 2008, Subsections 5.55.220 A and B of the Seattle Municipal Code are amended as follows:

5.55.220 Unlawful Actions – Violation – Penalties.

A. It shall be unlawful for any person liable for amounts due under this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52, or any lawful rule or regulation adopted by the Director;

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

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

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

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52;

6. To fail to appear or testify in response to a subpoena issued pursuant to SMC 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48 and 5.52;

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

8. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52.

B. Each violation of or failure to comply with the provisions of this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52 shall constitute a separate offense. Any person who commits an act defined in subsection A of this section is guilty of a gross misdemeanor, punishable in accordance with SMC 12A.02.070. The provisions of chapters 12A.02 and 12A.04((5)) of the Seattle Municipal Code apply to the offenses defined in subsection A of this section except that liability is absolute and none of the mental states described in SMC 12A.04.030 need be proved.

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Section 10. Effective January 1, 2008, Subsection 5.55.230 A of the Seattle Municipal Code is amended as follows:

5.55.230 Suspension or revocation of business license.

A. The Director, or his or her designee, shall have the power and authority to suspend or revoke any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such licensee in writing by certified mail of the suspension or revocation of his or her license and the grounds therefor. Any license issued under this chapter may be suspended or revoked based on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this chapter.

3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

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Section 11. Effective January 1, 2008, Subsection 3.02.125 A of the Seattle Municipal Code is amended as follows:

3.02.125 Hearing Examiner filing fees.

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

Basis for Hearing -- Fee

Admission Tax Deficiency (Ch. 5.40) -- $50

Admission Tax, Revocation of Exemption (Sec. 5.40.085) -- No fee

Ballard Avenue Landmark District (Ch. 25.16) -- 50

Business License Tax Deficiency (Ch. 5.45) -- 50

Cable Television Ordinance (Ch. 21.60) -- No fee

Columbia City Landmark District (Ch. 25.20) -- 50

Commercial Parking Tax Deficiency (Ch. 5.35) -- 50

Design Decision in Multiple Residence - Mixed Density Zone (Ch. 24.38) -- 50

Employee Hours Tax (Ch. 5.37) -- 50

Fair Employment Practices Ordinance (Ch. 14.04) -- No fee

Floating Home Moorages (Ch. 7.20) -- 50

/petitioner; maximum fee -- 150

Gambling Tax Deficiency (Ch. 5.52) -- 50

Grading Ordinance (Title 22, Subtitle VIII) -- 50

Harvard/Belmont Landmark District (Ch. 25.22) -- 50

Housing Code (Ch. 22.206) -- 50

Land Use Code Enforcement (Ch. 23.90) -- 50

Landmark Preservation Controls and Incentives (Sec. 25.12.530)

No fee

Landmarks Preservation (Sec. 25.12.740 and Sec. 25.12.835) -- 50

License Code (Title 6, Subtitle I) -- 50

Master Use Permit (Ch. 23.76) -- 50

Noise Ordinance (Ch. 25.08) -- 50

Open Housing Ordinance (Ch. 14.08) -- No fee

Pike Place Market Historical District (Ch. 25.24) -- 50

Pioneer Square Minimum Maintenance Ordinance (Ch. 25.28, Subchapter II) -- 50

Planned Unit Development (Ch. 24.66) -- 50

Plumbing Code (Ch. 20.16, Uniform Plumbing Code, Ord. 116594) -- 50

Property Tax Exemption, Cancellation of Exemption (Ch. 5.72) -- 50

Radiofrequency Radiation Ordinance (Ch. 25.10) -- 50

Refund Anticipation Loan (Ch. 7.26) -- 5

Relocation Assistance (Ch. 20.84) -- No fee

Seizure of Property; Controlled Substances (RCW 69.50.505(e)) -- No fee

Special Review Districts (Ch. 23.66) -- 50

Square Footage Tax (Ch. 5.46) -- 50

State Environmental Policy Act (SEPA) (when not a Master Use Permit component) (Ch. 25.04) -- 50

Utility tax (Ch. 5.48) -- 50

Zoning Map Amendments (Rezones)(Ch. 23.34) -- No fee

Zoning Rulings and Interpretations (Ch. 23.88) -- 50

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Section 12. Severability. If any part, provision or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 13. Pursuant to RCW 35.21.706, this ordinance is subject to the referendum procedure specified in that state law. A referendum petition may be filed within seven days of the passage of the ordinance with the filing officer of the City, which is hereby designated to be the City Clerk, located on the third floor of City Hall, 600 Fourth Avenue, Seattle, Washington. Within ten days of filing the petition, the City Clerk shall confer with the petitioner concerning the form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the City, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. Signed petition forms that are submitted timely to the City Clerk shall be transmitted to the King County Director of Records and Elections who shall verify the sufficiency of the signatures on the petition and

report to the City Clerk. If sufficient valid signatures are properly submitted, the City Clerk shall so inform the City Council, which shall submit the referendum measure to the voters at a special election to be held on the next City election date, as provided in RCW 29A.04.330, that occurs not less than forty-five days after the county's report of sufficiency is received by the City Clerk, unless a general election will occur within ninety days of receipt of that report, in which event the proposed ordinance will be submitted at the general election. State law, RCW 35.21.706, provides that the referendum procedure in this section is exclusive and that this ordinance is not subject to any other referendum or initiative process.

Section 14. Any act pursuant to the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 19th day of November, 2007, and signed by me in open session in authentication of its passage this 19th day of November, 2007.

NICK LICATA,

President of the City Council.

Approved by me this 26th day of November, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 26th day of November, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication orderd by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, November 28, 2007.

11/28(217889)

STATE OF WASHINGTON – KING COUNTY

--ss.

217889 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CT:ORDINANCE 122564

was published on

11/28/07

The amount of the fee charged for the foregoing publication is the sum of $ 976.50, which amount has been paid in full.

JENNIFER A. PATZER
COMMISSION EXPIRES
NOTARY
PUBLIC
OCT. 24, 2011
STATE OF WASHINGTON

Pamela Oglesby

Subscribed and sworn to before me on

11/28/07

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 122564

AN ORDINANCE related to taxation of businesses; creating a new Chapter 5.46 of the Seattle Municipal Code; and amending sections 3.02.125, 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

WHEREAS, the State of Washington grants cities the power to license businesses for the purpose of raising revenue; and

WHEREAS, the City of Seattle has, since 1932, imposed a business license tax (also known as a business and occupation (B&O) tax or gross receipts tax) on persons engaging in business in Seattle; and

WHEREAS, in 2003, the Legislature passed HB 2030, now codified as Chapter 35.102 RCW, which changed how cities impose B&O taxes; and

WHEREAS, RCW 35.102.130, which becomes effective on January 1, 2008, requires cities to change how B&O taxes are calculated for certain types of businesses; and

WHEREAS, in 2005, at the Legislature's request, the Washington Department of Revenue completed a study of the effects of RCW 35.102.130, which estimated that the City of Seattle would lose about $15.6 million in revenue as a result of the new provisions; and

WHEREAS, updating this estimate to reflect inflation and growth in the tax base suggests the City of Seattle will lose about $21.9 million in revenue in 2008; and

WHEREAS, RCW 35.102.1301 states that the Legislature's intent in having the Department of Revenue conduct a study was "to allow local jurisdictions to anticipate and appropriately address any potential adverse revenue impacts" from the change in state law; and

WHEREAS, the Mayor and City Council have reviewed multi-year forecasts of the effects of RCW 35.102.130 on the City's General Fund budget and believe the resulting revenue loss would preclude the City from proceeding with planned increases in police staffing, improvements in transportation infrastructure, and support for the 10-Year Plan to End Homelessness; and

WHEREAS, other Washington cities use different forms and combinations of business taxation, including taxes measured by the space used by businesses; and

WHEREAS, in imposing a new complementary tax under this ordinance, the Mayor and City Council seek to ensure that no business will pay more total tax than it would have under existing law; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective January 1, 2008, a new Chapter 5.46, "Square Footage Tax," is added to Title 5 of the Seattle Municipal Code as follows:

5.46.010 Administrative Provisions.

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

5.46.020 Definitions.

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter:

A. "Business floor space" means rentable square feet of an office or place of business and includes the proportionate share of the building service areas such as lobbies, corridors and other common areas in a building. The rentable square footage shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building. Business floor space does not include vertical penetrations through the building such as stairs, elevators, or heating, ventilation, air conditioning, utility, or telephone systems. Business floor space does not include other floor space as defined in subsection B below. If the business floor space is owned by the taxpayer, *the business floor space* will be calculated in the same manner as above and as if the area was rented.

State of Washington, King County

B. "Other floor space" means rentable square feet used for dining areas, exercise areas, or warehouse space.

1. "Dining area" means any space used exclusively by employees for the purpose of purchasing, preparing, or consuming meals.

2. "Exercise area" means any space used exclusively by employees for the purpose of physical exercise not related to an employee's normal job duties.

3. "Warehouse space" means any space used exclusively for the storage of merchandise or commodities.

Other floor space will be measured in the same manner as business floor space whether owned or rented.

5.46.030 Tax Imposed—Measure of the Tax.

A. A square footage tax for the act or privilege of engaging in business activities within the city is hereby levied upon and shall be collected from every person that leases, owns, occupies or otherwise maintains an office or place of business within the city. The tax shall be measured by the number of square feet of business floor space and other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city during the reporting period.

B. The amount of the tax due shall be equal to the sum of the number of square feet of business floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city multiplied by the rate of $0.39 quarterly ($1.56 annually), and the number of square feet of other floor space for each office or place of business leased, owned, occupied or otherwise maintained within the city multiplied by the rate of $0.13 quarterly ($.52 annually). The Director will adjust the square footage tax rate annually for inflation as follows: the tax rate for a year will be equal to the tax rate for the previous year increased (or decreased) by the percentage change in the annual Seattle-Tacoma-Bremerton, WA consumer price index for all urban consumers (CPI-U) for the previous year.

C. Persons with more than one office or place of business must include all business floor space and other floor space for all locations. When a person rents space to another person, the person occupying the rental space is responsible for the square footage tax on that rental space only if the renter has exclusive right of possession in the space as against the landlord. Space rented for the storage of goods in a warehouse where no walls separate the goods, and where the exclusive right of possession in the space is not held by the person to whom the space is rented, shall be included in the other floor space of the person that operates the warehouse business, and not by the business renting the warehouse space.

D. Persons whose business floor space, other floor space, or period of occupancy changes during a reporting period shall prorate the business floor space or other floor space for the reporting period. A change in the period of occupancy during the reporting period shall be prorated using a ratio of the number of days of occupancy during the reporting period compared to the total number of days within the reporting period. If the amount of business floor space or other floor space changes during the reporting period, floor space for the period shall be computed as a weighted average of the rentable space occupied during different segments of the reporting period. Weighting will be based upon the percentage of the reporting period that a given amount of space was leased, owned, occupied, or otherwise maintained within the city.

E. Any person required to pay the square footage tax imposed in this chapter that also pays the business license tax as imposed in SMC 5.45.050 may take a credit against the square footage tax computed as follows:

1. The credit is equal to the square footage tax owed for the reporting period multiplied by the ratio of adjusted gross income derived from the Seattle business location(s) for the reporting period to the total gross income derived from the Seattle business location(s) for the reporting period.

2. For the purpose of this section, "total gross income derived from the Seattle business location(s)" is equal to the total gross income derived from the business activities rendered by, generated from, or attributable to the place(s) of business located within the city.

3. For the purpose of this section, "adjusted gross income derived from the Seattle business location(s)" shall include total gross income derived from the Seattle business location(s) less:

(a) income derived from the sales of tangible personal property and retail services by the Seattle business location(s) delivered to a location within the State of Washington where no local jurisdiction imposes an eligible gross receipts tax; and

(b) the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.080 less the gross income of the Seattle business location(s) subject to the business license tax under SMC 5.45.050G as determined by SMC 5.45.060 through SMC 5.45.076 and SMC 5.45.081.

When the change in income calculated in subsection 3(b) is a negative number, the amount so calculated shall reduce the amount calculated in subsection 3(a); however, if the sum of the totals calculated under subsections 3(a) and 3(b) is a negative number, then the adjusted gross income derived from the Seattle business location(s) shall be equal to the total gross income derived from the Seattle business location(s).

4. In computing the tax credit, any gross receipts from manufacturing, extracting, and printing, and also subject to a selling tax (such as retailing and wholesaling) according to the Multiple Activity Tax Credit (SMC 5.45.070), shall be included in the gross income and the adjusted gross income only once.

5.46.040 Square footage tax —When due.

The tax imposed by this chapter shall be due and payable in accordance with SMC 5.55.040 in the same manner as the business license tax under SMC 5.45. Taxpayers filing their business license tax on a quarterly basis shall file the square footage tax on a quarterly basis and taxpayers filing their business license tax on an annual basis shall file the square footage tax on an annual basis on forms prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the square footage tax at the same time as they file their final business license tax return.

5.46.050 xemptions and deductions from the square footage tax.

A. The following persons are exempt from the square footage tax:

1. Any person qualifying under the tax threshold as provided in SMC 5.55.040 D 1 shall be exempt from the square footage tax in the year which they qualify under the tax threshold.

2. Persons that are exempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:

(a) Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per SMC 5.45;

(b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440;

(c) Businesses that distribute or sell only liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120; and

(d) Banks, whose income is apportioned according to WAC Chapter 458-28.

B. Persons owing no business license tax pursuant to SMC 5.45.050 due to exemptions or deductions contained in SMC 5.45.090 or SMC 5.45.100 (with the exception of subsection SMC 5.45.100 W) may take a credit against the square footage tax for the total amount of the tax.

C. The portion of the business floor space and other floor space that is used exclusively to administer and manage other offices or places of business outside of Seattle shall be considered headquarters activities and shall not be included in the square footage tax calculation.

D. Persons taxable under the utility tax pursuant SMC 5.48 are exempt from the square footage tax provided they generate no gross income from activities taxable under SMC 5.45.050. If taxpayers subject to the utility tax generate gross income from activities taxable under SMC 5.45.050, only the floor space used in generating such gross income will be subject to the square footage tax provisions of this chapter.

5.46.060 Maximum Square Footage Tax Credit

After application of the square footage tax credit provided in SMC 5.46.030 E, if the gross receipts business license tax assessed under SMC Chapter 5.45 and the square footage tax assessed under SMC Chapter 5.46 combine to result in a tax increase for the taxpayer when compared to the amount of tax that would have been due under the requirements of SMC Chapter 5.45 in effect prior to the implementation of RCW 35.102.130 on January 1, 2008, then an additional credit may be taken against the square footage tax for the amount of such tax increase.

5.46.070 Tax In Addition To Other License Fees Or Taxes.

The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

Section 2. Effective January 1, 2008, Section 5.30.010 of the Seattle Municipal Code is amended as follows:

5.30.010 Definition provisions.

The definitions contained in this chapter shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Taxes), 5.46 (Square Footage Tax), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent as expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include both genders.

Section 3. Effective January 1, 2008, Subsection B of 5.30.060 of the Seattle Municipal Code is amended as follows:

5.30.060 Definitions, T-Z.

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B. "Taxpayer" means any "person," as herein defined, required by SMC Chapter 5.55 to have a business license, or liable for any license, tax or fee, or for the collection of any tax or fee, under SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hours Tax), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), or who engages in any business or who performs any act for which a tax, or fee is imposed under those chapters.

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Section 4. Effective January 1, 2008, Section 5.55.010 of the Seattle Municipal Code is amended as follows:

5.55.010 Application of chapter stated.

Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business ((~~and Occupation~~)) License Tax), 5.46 (Square Footage Tax), 5.48 ((~~(1)~~)) (Utility Tax), and 5.52 (Gambling Tax), and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

Section 5. Effective January 1, 2008, Subsection 5.55.040 A of the Seattle Municipal Code is amended as follows:

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

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hour Taxes), 5.40 (Admission Taxes), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030(((~~A)(2)~~)) A2 and (((~~B)(2)~~)) B2 for punchboards and pulltabs shall be due and payable in monthly installments. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

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Section 6. Effective January 1, 2008, Subsection 5.55.060 A of the Seattle Municipal Code is amended as follows:

5.55.060 Records to be preserved - Examination - Inspection - Search Warrants - Estoppel to question assessments.

A. Every person liable for any fee or tax imposed by this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All places of business, books, records, papers, invoices, ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

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Section 7. Effective January 1, 2008, Subsection 5.55.150 E of the Seattle Municipal Code is amended as follows:

5.55.150 Appeal to the hearing examiner.

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E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this chapter, or SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 8. Effective January 1, 2008, Section 5.55.165 of the Seattle Municipal Code is amended as follows:

5.55.165 Director of Finance to make rules.

The Director of Finance shall have the power and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, 5.52 or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 9. Effective January 1, 2008, Subsections 5.55.220 A and B of the Seattle Municipal Code are amended as follows:

5.55.220 Unlawful Actions - Violation - Penalties.

A. It shall be unlawful for any person liable for amounts due under this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52, or any lawful rule or regulation adopted by the Director;

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

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

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

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52;

6. To fail to appear or testify in response to a subpoena issued pursuant to SMC 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48 and 5.52;

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

8. In any manner to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, and 5.52.

B. Each violation of or failure to comply with the provisions of this chapter, or SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52 shall constitute a separate offense. Any person who commits an act defined in subsection A of this section is guilty of a gross misdemeanor, punishable in accordance with SMC 12A.02.070. The provisions of chapters 12A.02 and 12A.04((~~(5)~~)) of the Seattle Municipal Code apply to the offenses defined in subsection A of this section except that liability is absolute and none of the mental states described in SMC 12A.04.030 need be proved.

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Section 10. Effective January 1, 2008, Subsection 5.55.230 A of the Seattle Municipal Code is amended as follows:

5.55.230 Suspension or revocation of business license.

A. The Director, or his or her designee, shall have the power and authority to suspend or revoke any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such licensee in writing by certified mail of the suspension or revocation of his or her license and the grounds therefor. Any license issued under this chapter may be suspended or revoked based on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this chapter.

3. The licensee has failed to comply with any provisions of SMC Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

***

Section 11. Effective January 1, 2008, Subsection 3.02.125 A of the Seattle Municipal Code is amended as follows:

3.02.125 Hearing Examiner filing fees.

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

Basis for Hearing -- Fee

Admission Tax Deficiency (Ch. 5.40) -- $50

Admission Tax, Revocation of Exemption (Sec. 5.40.085) -- No fee

Ballard Avenue Landmark District (Ch. 25.16) -- 50

Business License Tax Deficiency (Ch. 5.45) -- 50

Cable Television Ordinance (Ch. 21.60) -- No fee

Columbia City Landmark District (Ch. 25.20) -- 50

Commercial Parking Tax Deficiency (Ch. 5.35) -- 50

Design Decision in Multiple Residence - Mixed Density Zone (Ch. 24.38) -- 50

Employee Hours Tax (Ch. 5.37) -- 50

Fair Employment Practices Ordinance (Ch. 14.04) -- No fee

Floating Home Moorages (Ch. 7.20) -- 50

/petitioner; maximum fee -- 150

Gambling Tax Deficiency (Ch. 5.52) -- 50

Grading Ordinance (Title 22, Subtitle VIII) -- 50

Harvard/Belmont Landmark District (Ch. 25.22) -- 50

Housing Code (Ch. 22.206) -- 50

Land Use Code Enforcement (Ch. 23.90) -- 50

Landmark Preservation Controls and Incentives (Sec. 25.12.530)

No fee

Landmarks Preservation (Sec. 25.12.740 and Sec. 25.12.835) -- 50

License Code (Title 6, Subtitle I) -- 50

Master Use Permit (Ch. 23.76) -- 50

Noise Ordinance (Ch. 25.08) -- 50

Open Housing Ordinance (Ch. 14.08) -- No fee

Pike Place Market Historical District (Ch. 25.24) -- 50

Pioneer Square Minimum Maintenance Ordinance (Ch. 25.28, Subchapter II) -- 50

Planned Unit Development (Ch. 24.66) -- 50

Plumbing Code (Ch. 20.16, Uniform Plumbing Code, Ord. 116594) -- 50

Property Tax Exemption, Cancellation of Exemption (Ch. 5.72) -- 50

Radiofrequency Radiation Ordinance (Ch. 25.10) -- 50

Refund Anticipation Loan (Ch. 7.26) -- 5

Relocation Assistance (Ch. 20.84) -- No fee

Seizure of Property; Controlled Substances (RCW 69.50.505(e)) -- No fee

Special Review Districts (Ch. 23.66) -- 50

Square Footage Tax (Ch. 5.46) -- 50

State Environmental Policy Act (SEPA) (when not a Master Use Permit component) (Ch. 25.04) -- 50

Utility tax (Ch. 5.48) -- 50

Zoning Map Amendments (Rezones)(Ch. 23.34) -- No fee

Zoning Rulings and Interpretations (Ch. 23.88) -- 50

***

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Section 13. Pursuant to RCW 35.21.706, this ordinance is subject to the referendum procedure specified in that state law. A referendum petition may be filed within seven days of the passage of the ordinance with the filing officer of the City, which is hereby designated to be the City Clerk, located on the third floor of City Hall, 600 Fourth Avenue, Seattle, Washington. Within ten days of filing the petition, the City Clerk shall confer with the petitioner concerning the form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the City, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. Signed petition forms that are submitted timely to the City Clerk shall be transmitted to the King County Director of Records and Elections who shall verify the sufficiency of the signatures on the petition and report to the City Clerk. If sufficient valid signatures are properly submitted, the City Clerk shall so inform the City Council, which shall submit the referendum measure to the voters at a special election to be held on the next City election date, as provided in RCW 29A.04.330, that occurs not less than forty-five days after the county's report of sufficiency is received by the City Clerk, unless a general election will occur within ninety days of receipt of that report, in which event the proposed ordinance will be submitted at the general election. State law, RCW 35.21.706, provides that the referendum procedure in this section is exclusive and that this ordinance is not subject to any other referendum or initiative process.

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Passed by the City Council the 19th day of November, 2007, and signed by me in open session in authentication of its passage this 19th day of November, 2007.

NICK LICATA,

President of the City Council.

Approved by me this 26th day of November, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 26th day of November, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication orderd by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, November 28, 2007.

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