

CITY OF SEATTLE
ORDINANCE 126768
COUNCIL BILL 120512

AN ORDINANCE relating to weights and measures; conforming City provisions regarding weights and measures to state law; providing an enforcement process; updating fees; repealing requirements for weighmaster licenses; and amending Chapter 7.04 of the Seattle Municipal Code.

WHEREAS, Washington State has had laws regarding weights and measures of commodities dating back to the 19th century; and

WHEREAS, in Seattle, Ordinance 16965, passed in 1907, regulated the weight of bread loaves, and Ordinance 26018, passed in 1910, regulated weights and measures generally; and

WHEREAS, Chapter 52, Laws of 1913 created the state Department of Weights and Measures, whose duties included inspecting the weighing and measuring standards of first-class cities with a city sealer; and

WHEREAS, by amendments in Chapter 122, Laws of 1917, the only city sealers in state law as having a distinct regulatory sphere for weights and measures were those of cities with a population of over 50,000 (which at the time were only Seattle, Spokane, and Tacoma); and

WHEREAS, Chapter 194, Laws of 1927 reorganized the Department as a Division of Weights and Measures in the Department of Agriculture; and

WHEREAS, Chapter 67, Laws of 1969 created the current state framework for regulating weights and measures, codified in chapter 19.94 RCW; and

WHEREAS, in 1970, Seattle updated its weights and measures program by passing Ordinance 98870, later codified in Seattle Municipal Code Chapter 7.04; and

1 WHEREAS, Chapter 237, Laws of 1992 amended RCW 19.94.190 to state that city sealers
2 would enforce chapter 19.94 RCW directly; and

3 WHEREAS, although Chapter 96, Laws of 2019 amended RCW 19.94.010 to allow for any first-
4 class city or code city to appoint a city sealer, Seattle is currently the only city in
5 Washington with a city sealer (the Director of the Department of Finance and
6 Administrative Services) and therefore its own weights and measures program (in the
7 Consumer Protection Division); and

8 WHEREAS, several RCW amendments made over time, including those made by Chapter 96,
9 Laws of 2019, have not yet been reconciled with Seattle Municipal Code Chapter 7.04,
10 including the removal of misdemeanor penalties and other obsolete provisions; and

11 WHEREAS, Seattle’s weights and measures program has additionally enforced standards
12 regarding electronic price scanning systems since 2002 by the enactment of Ordinance
13 120976; and

14 WHEREAS, the City must invest to update equipment to enforce existing weighmaster license
15 standards; avoiding this cost benefits the City and reduces and streamlines the regulatory
16 burden on businesses and therefore repealing weighmaster license standards is proper;
17 and

18 WHEREAS, to streamline enforcement of weights and measures standards, the Consumer
19 Protection Division will adopt a citation-based enforcement process similar to other
20 divisions of the Department of Finance and Administrative Services; NOW,

21 THEREFORE,

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

1 Section 1. Chapter 7.04 of the Seattle Municipal Code, last amended by Ordinance
2 125449, is amended as follows:

3 **CHAPTER 7.04 WEIGHTS AND MEASURES CODE**

4 ~~((Subchapter I General Provisions))~~

5 **7.04.005 Title—Citation**~~((:))~~

6 This ~~((chapter))~~ Chapter 7.04 shall be known and designated as the "Weights and Measures
7 Code," may be cited as such, and is referred to herein as "this code."

8 **7.04.010 Definitions** ~~((generally.))~~

9 For the purposes of this code~~((, the words set out in this subchapter shall have the following
10 meanings.))~~ :

11 "Electronic price scanning system" means one or more electronic computational devices
12 that determine the price of a product using the Universal Product Codes (UPCs or "bar codes,"
13 e.g. price scanning devices), or Price Look-up (PLU) Codes.

14 "Person" means any individual, receiver, administrator, executor, assignee, trustee in
15 bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, business trust,
16 corporation, association, society, or any group of individuals acting as unit, whether mutual,
17 cooperative, fraternal, nonprofit, or otherwise.

18 ~~**(7.04.015 Barrel.**~~

19 ~~"Barrel," when used in connection with fermented liquor, means a unit of thirty one (31) gallons.~~

20 ~~**7.04.020 City Sealer—Deputy Sealer.**~~

21 ~~"City Sealer" and "Deputy Sealer" mean, respectively, a Sealer of weights and measures and a~~
22 ~~Deputy Sealer of weights and measures of the City.~~

23 ~~**7.04.025 Commodity in package form.**~~

1 ~~"Commodity in package form" means a commodity put up or packaged in any manner in~~
2 ~~advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an~~
3 ~~auxiliary shipping container enclosing packages that individually conform to the requirements of~~
4 ~~this code. An individual item or lot of any commodity not in package form as defined in this~~
5 ~~section, but on which there is marked a selling price based on an established price per unit of~~
6 ~~weight or measure, shall be construed to be a commodity in package form.~~

7 **~~7.04.030 Consumer package—Package of consumer commodity.~~**

8 ~~"Consumer package" or "package of consumer commodity" means a commodity in package form~~
9 ~~that is customarily produced or distributed for sale through retail sales agencies or~~
10 ~~instrumentalities for consumption by individuals or use by individuals for the purposes of~~
11 ~~personal care or in the performance of services ordinarily rendered in or about the household or~~
12 ~~in connection with personal possessions.~~

13 **~~7.04.035 Cord.~~**

14 ~~"Cord," when used in connection with wood intended for fuel purposes, means the amount of~~
15 ~~wood that is contained in a space of one hundred twenty eight (128) cubic feet, when the wood is~~
16 ~~ranked and well stowed.~~

17 **~~7.04.038 Electronic price scanning system.~~**

18 ~~"Electronic price scanning system" means one (1) or more electronic computational devices that~~
19 ~~determine the price of a product using the Universal Product Codes (UPCs or "bar codes," e.g.~~
20 ~~price scanning devices), or Price Look up (PLU) Codes.~~

21 **~~7.04.040 Fish.~~**

22 ~~"Fish" means any water-breathing animal, including shellfish, such as but not limited to, lobster,~~
23 ~~clam, crab or other mollusca which is prepared, processed, sold or intended or offered for sale.~~

1 **~~7.04.045 Intrastate commerce.~~**

2 ~~"Intrastate commerce" means any and all commerce or trade that is begun, carried on, and~~
3 ~~completed wholly within the limits of the State of Washington, and the phrase "introduced into~~
4 ~~intrastate commerce" defines the time and place at which the first sale and delivery of a~~
5 ~~commodity is made within the state, the delivery being made either directly to the purchaser or to~~
6 ~~a common carrier for shipment to the purchaser.~~

7 **~~7.04.050 Meat.~~**

8 ~~"Meat" means and includes all animal flesh, carcasses, or parts of animals, and shall include fish,~~
9 ~~shellfish, game, poultry, and meat food products of every kind and character, whether fresh,~~
10 ~~frozen, cooked, cured, dried, pickled or processed.~~

11 **~~7.04.055 Nonconsumer package— Package of nonconsumer commodity.~~**

12 ~~"Nonconsumer package" or "package of nonconsumer commodity" means any commodity in a~~
13 ~~package form other than a consumer package, and particularly a package designed solely for~~
14 ~~industrial or institutional use or for wholesale distribution only.~~

15 **~~7.04.060 Person.~~**

16 ~~"Person" means both the plural and singular, as the case demands, and shall include individuals,~~
17 ~~partnerships, corporations, companies, societies, and associations, and every officer, agent or~~
18 ~~employee thereof.~~

19 **~~7.04.065 Poultry.~~**

20 ~~"Poultry" means all fowl, domestic or wild, which is prepared, processed, sold or intended or~~
21 ~~offered for sale.~~

22 **~~7.04.070 Sell— Sale.~~**

23 ~~"Sell" and "sale" include barter and exchange.~~

1 **~~7.04.075 Ton.~~**

2 "~~Ton~~" means a unit of two thousand (2,000) pounds avoirdupois weight.

3 **~~7.04.080 Weight(s) and measure(s).~~**

4 "~~Weight(s) and measure(s)~~" means the recognized standards or units of measure used to indicate
5 the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable
6 commodity.

7 **~~7.04.085 Weighing and measuring instrument or device.~~**

8 "~~Weighing or measuring instrument or device~~" means any equipment or apparatus used
9 commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or
10 measurement of quantities, things, produce, or articles for distribution or consumption, that are
11 purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count,
12 including any accessory attached to or used in connection with a weighing or measuring
13 instrument or device when such accessory is so designed or installed that its operation affects, or
14 may affect, the accuracy or indication of the device. This definition shall be strictly limited to
15 those weighing or measuring instruments or devices governed by Handbook 44 as adopted under
16 RCW 19.94.195. The term shall not be construed to include meters for the measurement of
17 electricity, gas (natural or manufactured), or water when the same are operated in a public utility
18 system. Such electricity, gas, and water meters are specifically excluded from the purview of this
19 code, and none of the provisions of this code shall be construed to apply to such meters or to any
20 appliances or accessories associated therewith.

21 **~~Subchapter II Official Standards))~~**

22 **~~7.04.100 Systems ((adopted.)) and standards generally~~**

1 A. The system of weights and measures in customary use in the United States and the
2 metric system of weights and measures are jointly recognized, and either one ~~((4))~~ or both of
3 these systems shall be used for all commercial purposes in the City. The definitions of basic units
4 of weight and measure ~~((, the tables of weight and measure,))~~ and weights and measures
5 equivalents, as published by the National ~~((Bureau of Standards, and recognized by the state))~~
6 Institute of Standards and Technology or any successor organization are recognized and shall
7 govern weighing and measuring ~~((equipment and))~~ instruments or devices used in commercial
8 activities and other transactions involving weights and measures in the City.

9 ~~**(7.04.105 City standards — Examination and approval.**~~

10 ~~Such weights and measures in conformity with the standards of the United States as have been~~
11 ~~obtained by the City for use as City standards, shall, when the same have been examined and~~
12 ~~approved by the Director of the Department of Agriculture of the state, be the official City~~
13 ~~standards of weight and measure. The City standards shall be kept in a safe and suitable place~~
14 ~~designated by the City Sealer except for repairs or for certification, and they shall be submitted at~~
15 ~~least once every five (5) years to the Director of the Department of Agriculture of the state for~~
16 ~~testing and approval. The official City standards shall be used only in verifying the office or field~~
17 ~~standards and for scientific purposes.~~

18 ~~**7.04.110 Working standards and equipment.**~~

19 B. In addition to the official City standards provided for in Section 7.04.105, there shall
20 be supplied by the City ~~((such "))~~field standards~~(("))~~ and ~~((such))~~ equipment as ~~((may be found))~~
21 necessary to carry out the provisions of this code. The field standards shall be verified upon their
22 ~~((initial))~~ receipt and at least once ~~((each year thereafter))~~ every two years, pursuant to RCW
23 19.94.216, by direct comparison with the official ~~((City))~~ state standards.

1 **7.04.105 Standards adopted**

2 Except as otherwise modified in this code, the City adopts the following national standards:

<u>National standard for:</u>	<u>Contained in the:</u>
<u>A. The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment</u>	<u>2020 Edition of NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</u>
<u>B. The procedures for checking the accuracy of the net contents of packaged goods</u>	<u>2020 Edition of NIST Handbook 133 - Checking the Net Contents of Packaged Goods</u>
<u>C. The requirements for packaging and labeling, method of sale of commodities, national type evaluation, examination procedures for price verification, and engine fuels, petroleum products and automotive lubricants</u>	<u>2020 Edition of NIST Handbook 130 - Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality. Specifically:</u>
<u>1. Weights and measures requirements for all food and nonfood commodities in package form</u>	<u>Uniform Packaging and Labeling Regulation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2020 Edition.</u>
<u>2. Weights and measures requirements for the method of sale of food and nonfood commodities</u>	<u>Uniform Regulation for the Method of Sale of Commodities as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2020 Edition.</u>
<u>3. Weights and measures requirements for price verification</u>	<u>Examination Procedure for Price Verification as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2020 Edition.</u>
<u>4. Definitions; standard fuel specifications; classification and method of sale of petroleum products; retail storage tanks and dispenser filters; condemned product; product registration; and test methods and reproducibility limits</u>	<u>Uniform Engine Fuels and Automotive Lubricants Regulation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2020 Edition.</u>
<u>5. Weights and measures requirements for national type evaluation</u>	<u>Uniform Regulation for National Type Evaluation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2020 Edition.</u>

3

4 **7.04.115 Modifications to NIST Handbook 130**

1 A. The City adopts the following modifications to the listed sections of the *Uniform*
 2 *Regulation for the Method of Sale of Commodities* requirements published in *NIST Handbook*
 3 *130*, identified in subsection 7.04.105.C.2:

<u>Modified section</u>	<u>Modification</u>
<u>Section 2.20.1. Method of Retail Sale</u>	<p><u>Modify the existing text in section 2.20.1 with the following: "Type of Oxygenate must be Disclosed.</u></p> <p><u>(a) All automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers." In addition, gasoline-methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol.</u></p> <p><u>(b) Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel.</u></p> <p><u>(c) Gasoline-ethanol blend fuels containing not more than ten percent ethanol by volume, must be labeled "Contains up to 10% Ethanol."</u></p> <p><u>(d) This information shall be posted on the upper fifty percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u></p>
<u>Section 2.23.2. Animal Bedding</u>	<u>Modify the existing text to add: "2.23.2. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof."</u>
<u>Section 2.30.2. Labeling Requirements</u>	<u>Modify the existing text to add: Ethanol flex fuel identification and labeling must be done in accordance with 16 C.F.R. Part 306.</u>
<u>Section 2.31.2. Labeling of Retail Dispensers</u>	<p><u>Modify the existing text to add the following: "2.31.2.5. Labeling of Retail Dispensers Containing Not More Than 5% Biodiesel.</u></p> <p><u>(a) Each retail dispenser of biodiesel or biodiesel blend containing not more than five percent biodiesel must be labeled "May contain up to 5% Biodiesel."</u></p>

<u>Modified section</u>	<u>Modification</u>
	<p><u>(b) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u></p> <p>Modify the existing text to add the following: "2.31.2.6. Labeling of Retail Dispensers Containing More Than 5% Biodiesel.</p> <p><u>(a) Each retail dispenser of biodiesel or biodiesel blend containing more than five percent biodiesel must be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "biodiesel" or "biodiesel blend" (examples: B100 Biodiesel; B60 Biodiesel Blend).</u></p> <p><u>(b) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u></p>
Section 2.31.4. <u>Exemption</u>	Modify the existing text to delete section 2.31.4.

- 1 B. The City adopts the following modifications to the listed sections of the *Uniform*
 2 *Engine Fuels and Automotive Lubricants Regulation* requirements published in *NIST Handbook*
 3 *130*, identified in subsection 7.04.105.C.4:

<u>Modified section</u>	<u>Modification</u>
Section 2.1.2. <u>Gasoline-Ethanol Blends</u>	<p>Replace the existing text in section 2.1.2 with the following: "When gasoline is blended with 1 to 10 volume percent ethanol, the ethanol shall meet the requirements of ASTM D4806 and either:</p> <p><u>(a) The base gasoline used for blending with ethanol shall meet the requirements of ASTM D4814; except that the base gasoline shall meet the minimum temperature for a Vapor-Liquid Ratio of 20 for the applicable vapor lock protection class as follows:</u></p> <p style="padding-left: 40px;"><u>(1) Class 1 shall be 60°C (140°F)</u> <u>(2) Class 2 shall be 56°C (133°F)</u> <u>(3) Class 3 shall be 51°C (124°F)</u> <u>(4) Class 4 shall be 47°C (116°F)</u> <u>(5) Class 5 shall be 41°C (105°F)</u></p> <p style="text-align: center;"><u>or</u></p> <p><u>(b) The blend shall meet the requirements of ASTM D4814."</u></p> <p>Modify the existing text to add the following: "2.1.2.1. Maximum Vapor Pressure. The maximum vapor pressure of a gasoline-ethanol blend shall not exceed ASTM D4814 limits by more than 1.0 psi for:</p>

<u>Modified section</u>	<u>Modification</u>
	<p><u>(a) Only 9 to 10 volume percent ethanol blends from June 1 through September 15.</u></p> <p><u>(b) All blends of 1 to 10 volume percent ethanol from September 16 through May 31."</u></p>
<u>Section 3.2.4. Method of Retail Sale</u>	<p><u>Modify the existing text in section 3.2.4 with the following: "Type of Oxygenate must be Disclosed.</u></p> <p><u>(a) All automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers." In addition, gasoline-methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol.</u></p> <p><u>(b) Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel.</u></p> <p><u>(c) Gasoline-ethanol blend fuels containing not more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol."</u></p> <p><u>(d) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u></p>
<u>Section 3.8.2. Labeling Requirements</u>	<p><u>Modify the existing text to add: Ethanol flex fuel identification and labeling shall be in accordance with 16 C.F.R. Part 306.</u></p>
<u>Section 3.9.2. Retail Dispenser Labeling</u>	<p><u>Modify the existing text in section 3.9.2 to add: "(c) Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value maximum volume percent and ending with the word "Methanol." (Example: M85 Methanol.) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u></p>
<u>Section 3.15.2. Labeling of Retail Dispensers</u>	<p><u>Modify the existing text in subsection 3.15.2 to add: "3.15.2.4. Labeling of Retail Dispensers Containing Not More Than 5% Biodiesel. Each retail dispenser of biodiesel blend containing not more than five percent biodiesel must be labeled "May contain up to 5% Biodiesel.""</u></p> <p><u>Modify the existing text in subsection 3.15.2 to add: "3.15.2.5. Labeling of Retail Dispensers Containing More Than 5% Biodiesel. Each retail dispenser of biodiesel or biodiesel blend containing more than five percent</u></p>

<u>Modified section</u>	<u>Modification</u>
	<p>biodiesel must be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "Biodiesel" or "Biodiesel blend" (examples: B100 Biodiesel; B60 Biodiesel blend)."</p> <p>Modify the existing text in subsection 3.15.2 to add: "3.15.2.6. Placement of label. Labels shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</p>
Section 3.15.4. Exemption	Delete section 3.15.4.

1 C. The City adopts the following modifications to the listed sections of the Uniform
 2 Regulation for National Type Evaluation requirements published in *NIST Handbook 130*,
 3 identified in subsection 7.04.105.C.5:

<u>Modified section</u>	<u>Modification</u>
Section 2.3. Director	Modify the existing text in section 2.3 with the following: " <u>Director – Means the director of the Department of Finance and Administrative Services.</u> "
Section 4. Prohibited Acts and Exemptions	<p>Modify the existing text in subsection (c) with the following: "<u>A device in service in this state prior to July 5, 1997, that meets the specifications, tolerances, and other technical requirements of the <i>National Institute of Standards and Technology Handbook 44</i> shall not be required to be traceable to an active CC.</u>"</p> <p>Modify the existing text in subsection (d) with the following: "<u>A device in service in this state prior to July 5, 1997, removed from service by the owner or on which the department has issued a removal order after July 5, 1997, and returned to service at a later date shall be modified to meet all specifications, tolerances, and other technical requirements of the National Institute of Standards and Technology Handbook 44 effective on the date of the return to service. Such a device shall not be required to be traceable to an active CC.</u>"</p> <p>Modify the existing text in subsection (e) with the following: "<u>A device in service in this state prior to July 5, 1997, which is repaired after such date shall meet the specifications, tolerances, and other technical requirements of the National Institute of Standards and Technology Handbook 44 and shall not be required to be traceable to an active CC.</u>"</p> <p>Modify the existing text in subsection (f) with the following: "<u>A device in service in this state prior to July 5, 1997, that is still in use may be installed at another location in this state provided the device meets</u></p>

	<u>requirements in effect as of the date of installation in the new location; however, the device shall not be required to be traceable to an active CC."</u> <u>Modify the existing text in subsection (g) with the following: "A device in service in another state prior to July 5, 1997, may be installed in this state; however, the device shall meet the specifications, tolerances, and other technical requirements for weighing and measuring devices in the National Institute of Standards and Technology Handbook 44 and be traceable to an active CC."</u>
<u>Section 5.</u> <u>Participating</u> <u>Laboratory and</u> <u>Agreements</u>	<u>Modify the existing text to delete section 5.</u>
<u>Section 6.</u> <u>Revocation of</u> <u>Conflicting</u> <u>Regulations</u>	<u>Modify the existing text to delete section 6.</u>
<u>Section 7.</u> <u>Effective Date</u>	<u>Modify the existing text to delete section 7.</u>

1 ~~((Subchapter III City Sealer))~~

2 **7.04.130** ~~((Director of Finance and Administrative Services designated as))~~ **City Sealer**~~((:))~~

3 There shall be a City Sealer of Weights and Measures, referred to in this Code as the City Sealer.
 4 The Director of Finance and Administrative Services ("Director") shall be the City Sealer. There
 5 shall be such other necessary ~~((Deputy Sealers))~~ inspectors (serving as deputy sealers within the
 6 meaning of RCW 19.94.010) and technical and clerical personnel, as the City Council may from
 7 time to time authorize, who shall be appointed by the Director subject to ~~((Civil Service))~~ civil
 8 service laws and regulations.

9 **7.04.135 Powers and duties**~~((:))~~

10 The City Sealer shall have the custody of the City standards of weight and measure and of the
 11 other standards and equipment provided for by this code~~((:))~~ and shall keep accurate records of
 12 the same. The City Sealer, as well as Deputy Sealers when under the instructions and at the
 13 direction of the City Sealer, shall enforce the provisions of this code and of ~~((the State Weights~~
 14 ~~and Measures Act (RCW Chapter))~~ chapter 19.94 RCW~~((:))~~ as contemplated by RCW

1 19.94.190. ~~((He))~~ The City Sealer shall have and keep a general supervision over the weights and
2 measures offered for sale, sold, or in use in the City. ~~((He))~~ The City Sealer may establish rules
3 and regulations consistent with this code for enforcing and carrying out ~~((the))~~ its provisions ~~((of~~
4 ~~this code))~~.

5 ~~((7.04.140 Official guide of City Sealer—Correct or incorrect apparatus.~~

6 ~~The City Sealer shall use as his official guide in the enforcement of this code the specifications,~~
7 ~~tolerances, and other technical requirements for commercial weighing and measuring devices as~~
8 ~~adopted by the National Conference on Weights and Measures and published in the National~~
9 ~~Bureau of Standards Handbook 44, and supplements thereto and revisions thereof.~~

10 ~~For the purpose of this code, apparatus shall be deemed to be "correct" when it conforms to all~~
11 ~~such applicable specifications, tolerances, and regulations; other apparatus shall be deemed to be~~
12 ~~"incorrect.")~~

13 **7.04.145 General testing**~~((=))~~

14 A. When not otherwise provided by law, the City Sealer shall have the power to inspect
15 and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for
16 sale. It shall be the duty of the City Sealer to inspect and test, to ascertain if they are correct, all
17 weights and measures commercially used as often as necessary to secure compliance with this
18 code. This shall include but not be limited to commercial use: (1) in determining the weight,
19 measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis
20 of weight or of measure, (2) in computing the basic charge or payment for services rendered on
21 the basis of weight or measure, or (3) in determining weight or measurement when a charge is
22 made for such determination; provided, that with respect to single-service devices, that is,
23 devices designed to be used commercially only once and to be then discarded, and with respect

1 to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of
2 individual adjustment, the inspection and testing of each individual device shall not be required
3 and the inspecting and testing requirements of this ~~((section))~~ Section 7.04.145 will be satisfied
4 when inspections and tests are made on representative sample lots of such devices; and the larger
5 lots of which such sample lots are representative shall be held to be correct or incorrect upon the
6 basis of the results of the inspections and tests on such sample lots.

7 B. The City Sealer shall have the power to inspect and test, to ascertain if they are
8 correct, all electronic price scanning systems, as often as necessary to secure compliance with
9 this code. ~~((Electronic price scanning systems will be inspected following procedures contained
10 in National Conference on Weights and Measures (NCWM) Publication 19 Examination
11 Procedure for Price Verification (August 1995) as revised.~~

12 **~~7.04.150 Investigations.~~**

13 ~~The City Sealer shall investigate complaints made to him concerning violations of this code, and
14 shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable
15 to develop information on prevailing procedures in commercial quantity determinations and on
16 possible violations of the provisions of this code and to promote the general objective of
17 accuracy on the determination and representation of quantity in commercial transactions.~~

18 **~~7.04.155 Inspection of packages.~~**

19 ~~The City Sealer shall, from time to time, weigh or measure and inspect packages or amounts of
20 commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine
21 whether the same contain the amounts represented and whether they be kept, offered, or exposed
22 for sale, or sold, in accordance with law; and when such packages or amounts of commodities
23 are found not to contain the amounts represented or are found to be kept, offered, or exposed for~~

1 ~~sale, or sold in violation of law, the City Sealer may order them off sale and may mark or stamp~~
2 ~~them in a manner as to show them to be "illegal."~~

3 ~~In carrying out the provisions of this section, the City Sealer may employ recognized sampling~~
4 ~~procedures under which the compliance of a given lot of packages will be determined on the~~
5 ~~basis of the result obtained on a sample selected from and representative of such lot.~~

6 ~~No person shall:~~

7 ~~(A) sell, or keep, offer, or expose for sale any package or amount of commodity that has~~
8 ~~been ordered off sale as provided in this section unless and until such package or amount of~~
9 ~~commodity has been brought into full compliance with legal requirements, or~~

10 ~~(B) dispose of any package or amount of commodity that has been ordered off sale and~~
11 ~~that has not been brought into compliance with legal requirements, in any manner except with~~
12 ~~the specific approval of the City Sealer.~~

13 **~~7.04.160 Stop use, stop removal, and removal orders.~~**

14 ~~The City Sealer shall have the power to issue stop use orders, stop removal orders, and removal~~
15 ~~orders with respect to weights and measures being, or susceptible of being, commercially used,~~
16 ~~and to issue stop removal orders and removal orders with respect to packages or amounts of~~
17 ~~commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the~~
18 ~~course of his enforcement of the provisions of this code he deems it necessary or expedient to~~
19 ~~issue such orders. No person shall use, remove from the premises specified, or fail to remove~~
20 ~~from the premises specified, any weight, measure, or package or amount of commodity contrary~~
21 ~~to the terms of a stop use order, stop removal order, or removal order issued under the authority~~
22 ~~of this section.~~

23 **~~7.04.165 Disposition of correct and incorrect apparatus.~~**

1 ~~The City Sealer shall approve for use and seal or mark with appropriate devices such weights and~~
2 ~~measures as he finds upon inspection and test to be "correct" as defined in Section 7.04.140, and~~
3 ~~shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection~~
4 ~~or test, to be "incorrect" as defined in Section 7.04.140, but which in his best judgment are~~
5 ~~susceptible of satisfactory repair; provided, that the sealing or marking requirements of this~~
6 ~~section shall not be required with respect to such weights and measures as have been exempted~~
7 ~~by regulation of the City Sealer on the basis that such sealing or marking would be inappropriate,~~
8 ~~impracticable, or damaging to the apparatus in question.~~

9 ~~The City Sealer shall condemn, and may seize and may destroy, weights and measures found to~~
10 ~~be incorrect that in his best judgment are not susceptible of satisfactory repair.~~

11 ~~Weights and measures that have been rejected may be confiscated and may be destroyed by the~~
12 ~~City Sealer if not corrected as required by Section 7.04.170 or if used or disposed of contrary to~~
13 ~~the requirements of Section 7.04.170.~~

14 **7.04.170 Duty of owners of incorrect apparatus.**

15 ~~Weights and measures that have been rejected under the authority of the City Sealer or a Deputy~~
16 ~~Sealer shall remain subject to the control of the rejecting authority until such time as suitable~~
17 ~~repair or disposition thereof has been made as required by this section.~~

18 ~~The owners of such rejected weights and measures shall cause the same to be made correct~~
19 ~~within ten (10) days or such longer period as may be authorized by the rejecting authority; or, in~~
20 ~~lieu thereof, may dispose of the same, but only in such manner as is specifically authorized by~~
21 ~~the rejecting authority.~~

1 ~~Weights and measures that have been rejected shall not again be used commercially until they~~
2 ~~have been officially reexamined and found to be correct or until specific written permission for~~
3 ~~such use is issued by the rejecting authority.))~~

4 **7.04.175 ((Police powers—Right of entry.)) Rejection – Seizure for use as evidence – Entry**
5 **of premises – Search warrant**

6 A. With respect to the enforcement of chapter 19.94 RCW or the rules adopted under the
7 provisions of chapter 19.94 RCW, or this code, and any other law dealing with weights and
8 measures((, packaging, or electronic price scanning systems)) that the City Sealer is, or may be
9 empowered to enforce, the City Sealer ((is vested with the powers of a special policeman, and is
10 authorized to arrest any violator of the code and to seize for use as evidence incorrect or unsealed
11 weights and measures or amounts or packages or commodity, used, retained, offered or exposed
12 for sale, or sold in violation of law. Upon presentation of proper credentials, the City Sealer is
13 authorized with the consent of the occupant or pursuant to a lawfully issued warrant at
14 reasonable times during the normal business hours of the person using the weights and measures
15 or electronic price scanning to enter into or upon any structure or premises where weights and
16 measures or electronic price scanning are used or kept for commercial purposes for the purpose
17 of performing any duty imposed upon the City Sealer by this code.)) may reject or seize for use
18 as evidence incorrect weighing or measuring instruments or devices or packages of commodities
19 to be used, retained, offered, exposed for sale, or sold in violation of the law.

20 B. In the performance of official duties conferred under chapter 19.94 RCW or the rules
21 adopted under the provisions of chapter 19.94 RCW, or this code, the City Sealer is authorized at
22 reasonable times during the normal business hours of the person using a weighing or measuring
23 instrument or device to enter into or upon any structure or premises where such weighing or

1 measuring instrument or device is used or kept for commercial purposes. If the City Sealer is
2 denied access to any premises or establishment where such access was sought for the purposes
3 set forth in chapter 19.94 RCW or the rules adopted under the provisions of chapter 19.94 RCW,
4 or this code, the City Sealer may apply to any court of competent jurisdiction for a search
5 warrant authorizing access to such premises or establishment for such purposes. The court may,
6 upon such application, issue the search warrant for the purposes requested.

7 **7.04.180 Powers and duties of ~~((Deputy Sealers.))~~ inspectors**

8 The powers and duties given ~~((to and imposed upon the City Sealer by Sections 7.04.140 through~~
9 ~~7.04.165 and 7.04.175))~~ by law to the City Sealer are given to ~~((and imposed upon the Deputy~~
10 ~~Sealers))~~ inspectors also, when acting under the instructions and at the direction of the City
11 Sealer.

12 ~~**((Subchapter IV Packaging—Generally**~~

13 ~~**7.04.200 Methods of sale—Measures, weights or counts.**~~

14 ~~Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as~~
15 ~~otherwise provided in this code, commodities not in liquid form shall be sold only by weight, by~~
16 ~~measure of length or area, or by count; provided, that liquid commodities may be sold by weight~~
17 ~~and commodities not in liquid form may be sold by count only if such methods give accurate~~
18 ~~information as to the quantity of commodity sold; and provided further, that the provisions of~~
19 ~~this section shall not apply: (A) to commodities when sold for immediate consumption on the~~
20 ~~premises where sold, (B) to vegetables when sold by the head or bunch, (C) to commodities~~
21 ~~when in package form or in containers standardized by a law of the state or by federal law, (D) to~~
22 ~~commodities in package form when there exists a general consumer usage to express the quantity~~
23 ~~in some other manner, (E) to concrete aggregates, concrete mixtures, and loose solid materials~~

1 ~~such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (F) to~~
2 ~~unprocessed vegetable and animal fertilizer when sold by cubic measure.~~

3 **~~7.04.205 Declarations of quantity and origin.~~**

4 ~~Except as otherwise provided in this code, any commodity in package form introduced or~~
5 ~~delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or~~
6 ~~offered or exposed for sale in intrastate commerce, shall bear on the outside of the package~~
7 ~~definite, plain, and conspicuous declarations of: (A) the identity of the commodity in the package~~
8 ~~unless the same can easily be identified through the wrapper or container, (B) the net quantity of~~
9 ~~the contents in terms of weight, measure, or count, and (C) in the case of any package kept,~~
10 ~~offered, or exposed for sale, or sold, any place other than on the premises where packed, the~~
11 ~~name and place of business of the manufacturer, packer, or distributor; provided, that in~~
12 ~~connection with the declaration required under clause (B), neither the qualifying term "when~~
13 ~~packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or~~
14 ~~count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of~~
15 ~~commodity in a package, shall be used.~~

16 **~~7.04.210 Declarations of single unit price on random packages.~~**

17 ~~In addition to the declarations required by Section 7.04.205, any commodity in package form, the~~
18 ~~package being one of a lot containing random weights, measures, or counts of the same~~
19 ~~commodity and bearing the total selling price of the package, shall bear on the outside of the~~
20 ~~package a plain and conspicuous declaration of the price per single unit of weight, measure, or~~
21 ~~count.~~

22 **~~7.04.215 Misleading packages.~~**

1 ~~No commodity in package form shall be so wrapped, nor shall it be in a container so made,~~
2 ~~formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package.~~

3 **~~7.04.220 Advertising packages for sale.~~**

4 ~~Whenever a commodity in package form is advertised in any manner and the retail price of the~~
5 ~~package is stated in the advertisement, there shall be closely and conspicuously associated with~~
6 ~~such statement of price a declaration of the basic quantity of contents of the package as is~~
7 ~~required by law or regulation to appear on the package; provided, that where the law or~~
8 ~~regulation requires a dual declaration of net quantity to appear on the package, only the~~
9 ~~declaration that sets forth the quantity in terms of the smaller unit of weight or measure (the~~
10 ~~declaration that is required to appear first and without parentheses on the package) need appear~~
11 ~~in the advertisement; and provided further, that there shall not be included as part of the~~
12 ~~declaration required under this section such qualifying terms as "when packed," "minimum,"~~
13 ~~"not less than," or any other terms of similar import, nor any term qualifying a unit of weight,~~
14 ~~measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate~~
15 ~~the amount of commodity in the package.~~

16 **~~Subchapter V Packaging—Specifications~~**

17 **~~7.04.250 Subchapter applicability.~~**

18 ~~This subchapter shall apply to commodities in package form except those:~~

19 ~~A. In inner wrappings not intended to be individually sold to the consumer;~~

20 ~~B. In auxiliary containers not intended to be sold to the consumer intact, bearing no~~
21 ~~printed matter pertaining to any commodity, and enclosing packages that are individually marked~~
22 ~~in conformance with the requirements of this subchapter;~~

1 ~~C. In containers used for retail tray pack displays when the container is not intended to be~~
2 ~~sold; or~~

3 ~~D. Commodities put up in variable weights and sizes for sale intact and intended to be~~
4 ~~either weighed or measured at the time of sale, where no package quantities are represented, and~~
5 ~~where the method of sale is clearly indicated in close proximity to the quantity being sold; or~~

6 ~~E. Open carriers and transparent wrappers or carriers for containers when the wrappers or~~
7 ~~carriers do not bear any written, printed, or graphic matter obscuring the label information~~
8 ~~required by this code.~~

9 **7.04.255 Definitions.**

10 ~~A. "Label" means any written, printed, or graphic matter affixed to, applied to, attached~~
11 ~~to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer~~
12 ~~commodity or a package containing any consumer commodity, for purposes of branding,~~
13 ~~identifying, or giving any information with respect to the commodity or to the contents of the~~
14 ~~package.~~

15 ~~B. "Multiunit package" means a package containing two or more individual packages of~~
16 ~~the same commodity, in the same quantity, with the individual packages intended to be sold as~~
17 ~~part of the multiunit package but capable of being individually sold in full compliance with all~~
18 ~~requirements of this code.~~

19 ~~C. "Package" means any container or wrapper in which any commodity is enclosed for~~
20 ~~use in the delivery or display for sale of that commodity, but does not include shipping~~
21 ~~containers or wrappers used solely for the transportation of any such commodity in bulk or in~~
22 ~~quantity to manufacturers, processors, or distributors.~~

1 ~~D. "Principal display panel or panels" means that part, or those parts, of a label that is, or~~
2 ~~are, so designed as to be most likely to be displayed, presented, shown, or examined under~~
3 ~~normal and customary conditions of display and purchase. Wherever a principal display panel~~
4 ~~appears more than once on a package, all requirements pertaining to the principal display panel~~
5 ~~shall pertain to all such principal display panels.~~

6 ~~E. "Random package" means a package that is one of a lot, shipment, or delivery of~~
7 ~~packages of the same consumer commodity with varying weights; that is, packages of the same~~
8 ~~consumer commodity with no fixed pattern of weight.~~

9 **~~7.04.260 Declaration of identity—Contents.~~**

10 ~~A declaration of identity shall appear on the principal display panel and shall positively identify~~
11 ~~the commodity in the package by its common or usual name, description, generic term, or the~~
12 ~~like.~~

13 **~~7.04.265 Declaration of identity—Placement.~~**

14 ~~A declaration of identity shall appear generally parallel to the base on which the package rests as~~
15 ~~it is designed to be displayed.~~

16 **~~7.04.270 Identification of manufacturer, packer or distributor.~~**

17 ~~A. Any package kept, offered, or exposed for sale, or sold, at any place other than on the~~
18 ~~premises where packed shall specify conspicuously on the label of the package the name and~~
19 ~~address of the manufacturer, packer, or distributor. The name shall be the actual corporate name,~~
20 ~~or, when not incorporated, the name under which the business is conducted. The address shall~~
21 ~~include street address, city, state, and ZIP Code; however, the street address may be omitted if~~
22 ~~this is shown in a current city directory or telephone directory. The requirement for inclusion of~~
23 ~~the ZIP Code shall apply only to labels that have been developed or revised after July 1, 1968.~~

1 ~~B. If a person manufactures, packs, or distributes a commodity at a place other than his~~
2 ~~principal place of business, the label may state the principal place of business in lieu of the actual~~
3 ~~place where the commodity was manufactured or packed or is to be distributed, unless such~~
4 ~~statement would be misleading. Where the commodity is not manufactured by the person whose~~
5 ~~name appears on the label, the name shall be qualified by a phrase that reveals the connection~~
6 ~~such person has with such commodity, such as "Manufactured for and packed by _____,"~~
7 ~~"Distributed by _____," or any other wording of similar import that expresses the facts.~~

8 **~~7.04.275 Declaration of quantity—Largest whole unit.~~**

9 ~~Where this subchapter requires that the quantity declaration be in terms of the largest whole unit,~~
10 ~~the declaration shall, with respect to a particular package, be in terms of the largest whole unit of~~
11 ~~weight or measure, with any remainder expressed in:~~

12 ~~A. Common or decimal fractions of such largest whole unit; or in~~

13 ~~B. The next smaller whole unit, or units, with any further remainder in terms of common~~
14 ~~or decimal fractions of the smallest unit present in the quantity declaration.~~

15 **~~7.04.280 Net quantity.~~**

16 ~~The principal display panel of the package shall bear a declaration of the net quantity of the~~
17 ~~commodity in the package exclusive of wrappers and any other material packed with such~~
18 ~~commodity; provided, that the declaration of quantity on an aerosol package shall disclose the~~
19 ~~net quantity of the commodity (including propellant) that will be expelled when the instructions~~
20 ~~for use as shown on the container are followed; and provided further, that the term "net weight"~~
21 ~~shall be used when stating the net quantity of contents in terms of weight; and provided further,~~
22 ~~that a quantity declaration may appear on more than one (1) line of print or type.~~

23 **~~7.04.285 Terms used to describe quantity.~~**

~~The declaration of the quantity of a particular commodity shall be expressed in such terms of weight, measure, or count, or a combination of count and weight, measure, or size, as have been firmly established in general consumer usage and trade custom and as give accurate and adequate information as to the quantity of the commodity; provided, that if there exists no firmly established general consumer usage and trade custom with respect to the terms used in expressing such declaration of quantity, the declaration shall be in terms of liquid measure if the commodity is liquid, or in terms of weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid; and provided further, that if the commodity is packaged in an aerosol container, the declaration shall be in terms of weight (including the propellant).~~

~~7.04.290 Quantity in weight or measure.~~

~~A declaration of quantity in terms of weight or measure shall be accompanied by a declaration of the count or size of the individual units of the commodity, unless the declaration of weight or measure alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.~~

~~7.04.295 Quantity in count.~~

~~A declaration of quantity in terms of count shall be supplemented by a declaration of the weight, measure, or size of the individual units of the commodity, or of the total weight or measure of the commodity, unless a declaration of count alone is fully informative to the consumer. Such declaration shall appear on the principal display panel.~~

~~7.04.300 Multi-unit packages.~~

~~A. Any package containing more than one (1) individual commodity in package form of the same commodity shall bear on the outside of the package a declaration of:~~

- ~~1. The number of individual units;~~

1 ~~2. The quantity of each individual unit; and~~

2 ~~3. The total quantity of the contents of the multi-unit package; provided, that the~~
3 ~~requirement for a declaration of the total quantity of contents of a multiunit package shall be~~
4 ~~effective with respect to those labels revised after January 1, 1970. Any such declaration of total~~
5 ~~quantity shall not be required to include the parenthetical quantity statement of a dual quantity~~
6 ~~representation.~~

7 ~~B. Whenever the quantity declaration appearing on individual units of a multiunit~~
8 ~~package is located other than in the lower thirty percent (30%) of the principal display panel, the~~
9 ~~individual units of that multiunit package may not be separately sold.~~

10 ~~**7.04.305 Combination packages.**~~

11 ~~Any package containing individual units of dissimilar commodities (such as an antiquing kit, for~~
12 ~~example) shall bear on the label of the package a quantity declaration for each unit.~~

13 ~~**7.04.310 Variety packages.**~~

14 ~~Any package containing individual units of reasonably similar commodities (such as, for~~
15 ~~example, seasonal gift packages, variety packages of cereal) shall bear on the label of the~~
16 ~~package a declaration of the total quantity of commodity in the package.~~

17 ~~**7.04.315 Cylindrical containers.**~~

18 ~~In the case of cylindrical or nearly cylindrical containers, information required to appear on the~~
19 ~~principal display panel shall appear within that forty percent (40%) of the circumference which is~~
20 ~~most likely to be displayed, presented, shown, or examined under customary conditions of~~
21 ~~display for retail sale.~~

22 ~~**7.04.320 Units of measure to be used.**~~

23 ~~A declaration of quantity:~~

1 ~~A. In units of weight, shall be in terms of the avoirdupois pound or ounce;~~

2 ~~B. In units of liquid measure, shall be in terms of the United States gallon of two hundred~~
3 ~~thirty one (231) cubic inches or liquid quart, liquid pint, or fluid ounce subdivisions of the~~
4 ~~gallon, and shall express the volume at sixty eight (68) degrees Fahrenheit (twenty (20) degrees~~
5 ~~Centigrade), except in the case of petroleum products, for which the declaration shall express the~~
6 ~~volume at sixty (60) degrees Fahrenheit (15.6 degrees Centigrade), and except also in the case of~~
7 ~~a commodity that is normally sold and consumed while frozen, for which the declaration shall~~
8 ~~express the volume at the frozen temperature, and except also in the case of a commodity that is~~
9 ~~normally sold in the refrigerated state, for which the declaration shall express the volume at forty~~
10 ~~(40) degrees Fahrenheit (four (4) degrees Centigrade);~~

11 ~~C. In units of linear measure, shall be in terms of the yard, foot, or inch;~~

12 ~~D. In units of area measure, shall be in terms of the square yard, square foot, or square~~
13 ~~inch;~~

14 ~~E. In units of dry measure, shall be in terms of the United States bushel of 2,150.42 cubic~~
15 ~~inches, or peck, dry quart, and dry pint subdivisions of the bushel;~~

16 ~~F. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch;~~

17 ~~Provided, that in the case of drugs, in lieu of any requirement to the contrary, the declaration of~~
18 ~~quantity may be in terms of a unit of the metric system of weight or measure: and provided~~
19 ~~further, that in the case of a commodity packed for export shipment, the declaration of quantity~~
20 ~~may be in terms of a system of weight or measure in common use in the country to which such~~
21 ~~shipment is to be exported; and provided further, that when packages of fluid dairy products and~~
22 ~~packages of ice cream and similar frozen desserts are put up for sale in quantities of eight (8);~~

1 ~~sixteen (16), thirty two (32) or sixty four (64) fluid ounces, the quantity declaration may be~~
2 ~~expressed as "(1/2) pint," "1 pint," "1 quart," "1/2 gallon," "1 gallon," respectively.~~

3 **~~7.04.325 Abbreviations.~~**

4 ~~Any of the following abbreviations, and none other, may be employed in the quantity statement~~
5 ~~of a commodity or package of commodity:~~

avoirdupois	avdp	ounce	oz	cubic centi-	
cubic	cu	pint	pt	meter	ee
feet or foot	ft	pound	lb	gram	g
fluid	fl	quart	qt	kilogram	kg
gallon	gal	square	sq	microgram	meg
inch	in	weight	wt	milligram	mg
liquid	liq	yard	yd	milliliter	ml

6
7 ~~(There normally are no periods following, nor plural forms of, these abbreviations. For~~
8 ~~example, the abbreviation is "oz" for both "ounce" and "ounces.")~~

9 **~~7.04.330 Units with two or more meanings.~~**

10 ~~When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall~~
11 ~~identify the particular meaning of the term by the use of the term "fluid"; however, such~~
12 ~~distinction may be omitted when, by association of terms (for example, as in 1 pint 4 ounces), the~~
13 ~~proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or~~
14 ~~dry quart, the declaration shall include the word "dry."~~

15 **~~7.04.335 Quantity of less than one foot, square foot, pound, or pint.~~**

16 ~~The declaration of quantity shall be expressed in terms of:~~

1 ~~A. In the case of length measure of less than one foot (1'), inches and fractions of inches;~~

2 ~~B. In the case of area measure of less than one (1) square foot, square inches and~~
3 ~~fractions of square inches;~~

4 ~~C. In the case of weight or fluid measure of less than one (1) pound or one (1) pint,~~
5 ~~ounces and fractions of ounces;~~

6 ~~Provided, that the quantity declaration appearing on a random package may be expressed in~~
7 ~~terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not~~
8 ~~more than two (2) decimal places.~~

9 **~~7.04.340 Quantity of four or more feet, square feet, pounds, or gallons.~~**

10 ~~In the case of:~~

11 ~~A. Length measure of four feet (4') or more;~~

12 ~~B. Area measure of four (4) square feet or more; and~~

13 ~~C. Weight or fluid measure of four (4) pounds or more, or one (1) gallon or more;~~

14 ~~the declaration of quantity shall be expressed in terms of the largest whole unit.~~

15 **~~7.04.345 Weight or fluid measure — Dual quantity declaration.~~**

16 ~~On packages containing one (1) pound or more but less than four (4) pounds, or one (1) pint or~~
17 ~~more but less than one (1) gallon, the declaration shall be expressed in ounces and, in addition,~~
18 ~~shall be followed by a declaration, presented in parentheses, in terms of the largest whole unit;~~
19 ~~provided, that the quantity declaration appearing on a random package may be expressed in~~
20 ~~terms of pounds and decimal fractions of the pound carried out to not more than two (2) decimal~~
21 ~~places.~~

22 **~~7.04.350 Length measure — Dual quantity declaration.~~**

1 ~~On packages containing one foot (1') or more but less than four feet (4'), the declaration shall be~~
2 ~~expressed in inches and, in addition, shall be followed in parentheses by a declaration expressed~~
3 ~~in terms of the largest whole unit; provided, that the quantity declaration appearing on a random~~
4 ~~package may be expressed in terms of feet and decimal fractions of the foot carried out to not~~
5 ~~more than two (2) decimal places.~~

6 **~~7.04.355 Area measure—Dual quantity declaration.~~**

7 ~~On packages containing one (1) square foot or more but less than four (4) square feet, the~~
8 ~~declaration shall be expressed in square inches and, in addition, shall be followed in parentheses~~
9 ~~by a declaration expressed in terms of the largest whole unit; provided, that the quantity~~
10 ~~declaration appearing on a random package may be expressed in terms of square feet and~~
11 ~~decimal fractions of the square foot carried out to not more than two (2) decimal places.~~

12 **~~7.04.360 Bidimensional commodities.~~**

13 ~~For bidimensional commodities (including roll type commodities) the quantity declaration shall~~
14 ~~be expressed:~~

15 ~~A. If less than one (1) square foot, in terms of linear inches and fractions of linear inches;~~

16 ~~B. If at least one (1) square foot but less than four (4) square feet, in terms of square~~
17 ~~inches followed in parentheses by a declaration of both the length and width, each being in terms~~
18 ~~of the largest whole unit; provided, that:~~

19 ~~1. No square inch declaration is required for a bidimensional commodity of four~~
20 ~~inches (4") width or less, and~~

21 ~~2. A dimension of less than two feet (2') may be stated in inches within the~~
22 ~~parenthetical, and~~

1 3. ~~Commodities consisting of usable individual units (except roll type~~
2 ~~commodities with individual usable units created by perforations, for which see Section~~
3 ~~7.04.365) require a declaration of unit area but not a declaration of total area of all such units;~~

4 C. ~~If four (4) square feet or more, in terms of square feet followed in parentheses by a~~
5 ~~declaration of the length and width in terms of the largest whole units; provided, that:~~

6 1. ~~No declaration in square feet is required for a bidimensional commodity with a~~
7 ~~width of four inches (4") or less,~~

8 2. ~~A dimension of less than two feet (2') may be stated in inches within the~~
9 ~~parenthetical, and~~

10 3. ~~No declaration in square feet is required for commodities for which the length~~
11 ~~and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such~~
12 ~~commodities clearly present the length and width measurements on the label.~~

13 **~~7.04.365 Count — Ply.~~**

14 A. ~~If the commodity is in individually usable units of one or more components or ply, the~~
15 ~~quantity declaration shall, in addition to complying with other applicable quantity declaration~~
16 ~~requirements of this subchapter, include the number of ply and the total number of usable units.~~

17 B. ~~Roll type commodities, when perforated so as to identify individual usable units, shall~~
18 ~~not be deemed to be made up of usable units; however, such roll type commodities shall be~~
19 ~~labeled in terms of:~~

20 1. ~~Total area measurement; and~~

21 2. ~~Number of ply;~~

22 3. ~~Count of usable units; and~~

23 4. ~~Dimensions of a single usable unit.~~

1 **~~7.04.370 Reduction of fractions.~~**

2 ~~Fractions employed in declarations of quantity may be either common fractions or decimal~~
3 ~~fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty~~
4 ~~seconds, and shall be reduced to its lowest terms. A decimal fraction shall not be carried out to~~
5 ~~more than two places; provided, that if there exists with respect to a particular commodity a~~
6 ~~firmly established general consumer usage and trade custom contrary to the requirement~~
7 ~~pertaining to common fractions, as set forth in this section, for the reduction of a common~~
8 ~~fraction to its lowest terms, the declaration may be made in accordance with such usage and~~
9 ~~custom; and provided further, that in the case of drugs, a decimal fraction may be carried out to~~
10 ~~three (3) places.~~

11 **~~7.04.375 Supplementary quantity declarations.~~**

12 ~~The required quantity declaration may be supplemented by one or more declarations of weight,~~
13 ~~measure, or count, such as declarations appearing other than on a principal display panel. Such~~
14 ~~supplemental statement of quantity of contents shall not include any terms qualifying a unit of~~
15 ~~weight, measure, or count that tends to exaggerate the amount of commodity contained in the~~
16 ~~package (e.g., "giant" quart, "full" gallon, "when packed," "minimum," or words of similar~~
17 ~~import).~~

18 **~~7.04.380 Metric system declarations.~~**

19 ~~A separate statement of the net quantity of contents in terms of the metric system is not regarded~~
20 ~~as a supplemental statement, and a statement of quantity in terms of the metric system of weight~~
21 ~~or measure may also appear on the principal display panel or on other panels.~~

22 **~~7.04.385 Average quantity at least equal to declared quantity.~~**

1 ~~The average quantity of contents in the packages of a particular lot, shipment or delivery shall at~~
2 ~~least equal the declared quantity, and no unreasonable shortage in any package shall be~~
3 ~~permitted, even though overages in other packages in the same shipment, delivery or lot~~
4 ~~compensate for such shortage.~~

5 **~~7.04.390 Qualification of declaration prohibited.~~**

6 ~~In no case shall any declaration of quantity be qualified by the addition of the words "when~~
7 ~~packed," "minimum," or "not less than," or any words of similar import, nor shall any unit of~~
8 ~~weight, measure, or count be qualified by any term (such as "jumbo," "giant," "full," or the like)~~
9 ~~that tends to exaggerate the amount of commodity.~~

10 **~~7.04.395 Information to be prominent and legible.~~**

11 ~~All information required to appear on a consumer package shall appear thereon in the English~~
12 ~~language and shall be prominent, definite, and plain, and shall be conspicuous as to size and style~~
13 ~~of letters and numbers and as to color of letters and numbers in contrast to color of background.~~
14 ~~Any required information that is either in hand lettering or hand script shall be entirely clear and~~
15 ~~equal to printing in legibility.~~

16 **~~7.04.400 Location of declaration of quantity.~~**

17 ~~The declaration or declarations of quantity of the contents of a package shall appear in the~~
18 ~~bottom thirty percent (30%) of the principal display panel or panels, except as otherwise~~
19 ~~provided in Section 7.04.315.~~

20 **~~7.04.405 Style of type or lettering.~~**

21 ~~The declaration or declarations of quantity shall be in such a style of type or lettering as to be~~
22 ~~boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic~~
23 ~~material on the package, except that a declaration of net quantity blown, formed, or molded on a~~

1 ~~glass or plastic surface is permissible when all label information is blown, formed, or molded on~~
2 ~~the surface.~~

3 **~~7.04.410 Color contrast.~~**

4 ~~The declaration or declarations of quantity shall be in a color that contrasts conspicuously with~~
5 ~~its background, except that a declaration of net quantity blown, formed, or molded on a glass or~~
6 ~~plastic surface shall not be required to be presented in a contrasting color if no required label~~
7 ~~information is on the surface in a contrasting color.~~

8 **~~7.04.415 Free area.~~**

9 ~~The area surrounding the quantity declaration shall be free of printed information:~~

10 ~~A. Above and below, by a space equal to at least the height of the lettering in the~~
11 ~~declaration; and~~

12 ~~B. To the left and right, by a space equal to twice the width of the letter "N" of the style~~
13 ~~and size of type used in the declaration.~~

14 **~~7.04.420 Calculation of area of principal display panel for purposes of type size.~~**

15 ~~A. The square inch area of the principal display panel shall be:~~

16 ~~1. In the case of a rectangular container, one entire side which properly can be~~
17 ~~considered to be the principal display panel, the product of the height times the width of that~~
18 ~~side;~~

19 ~~2. In the case of a cylindrical or nearly cylindrical container, forty percent (40%)~~
20 ~~of the product of the height of the container times the circumference; or~~

21 ~~3. In the case of any other shaped container, forty percent (40%) of the total~~
22 ~~surface of the container, unless such container presents an obvious principal display panel (e.g.,~~

1 ~~the top of a triangular or circular package of cheese, or the top of a can of shoe polish), the area~~
2 ~~shall consist of the entire such surface.~~

3 ~~B. Determination of the principal display panel shall exclude tops, bottoms, flanges at~~
4 ~~tops and bottoms of cans, and shoulders and necks of bottles or jars.~~

5 **7.04.425 Minimum height of numbers and letters.**

6 The height of any letter or number in the required quantity declaration shall be not less than that
7 shown in Table 1 with respect to the square inch area of the panel, and the height of each number
8 of a common fraction shall meet one half (1/2) the minimum height standards.

TABLE I Minimum Height of Numbers and Letters		
Square-inch Area of Principal Display Panel	Minimum Height of Numbers and Letters	Minimum Height Label Information Blown, Formed, or Molded Into Surface of Container
5 square inches and less	1/16 inch	1/8 inch
Greater than 5 square inches and not greater than 25 square inches	1/8 inch	3/16 inch
Greater than 25 square inches and not greater than 100 square inches	3/16 inch	1/4 inch
Greater than 100 square inches and not greater than 400 square inches	1/4 inch	5/16 inch
Greater than 400 square inches	1/2 inch	9/16 inch

9
10 **7.04.430 Packages exempt from dual quantity declaration.**

1 ~~Whenever any consumer commodity or package of consumer commodity is exempted from the~~
2 ~~requirements for dual quantity declaration, the net quantity declaration required to appear on the~~
3 ~~package shall be in terms of the largest whole unit.~~

4 **~~7.04.435 Random packages.~~**

5 ~~A random package bearing a label conspicuously declaring:~~

6 ~~A. The net weight;~~

7 ~~B. The price per pound; and~~

8 ~~C. The total price;~~

9 ~~shall be exempt from the type size, dual declaration, placement, and free area requirements of~~
10 ~~this regulation. In the case of a random package of food packed at one place for subsequent sale~~
11 ~~at another, neither the price per unit of weight nor the total selling price need appear on the~~
12 ~~package, provided the package label includes both such prices at the time it is offered or exposed~~
13 ~~for sale at retail.~~

14 **~~7.04.440 Penny candy.~~**

15 ~~When individually wrapped pieces of "penny candy" or individually wrapped pieces of candy of~~
16 ~~less than one half (1/2) ounce net weight are shipped or delivered in containers that conform to the~~
17 ~~labeling requirements of this subchapter, such individual pieces shall be exempt from such~~
18 ~~labeling requirements.~~

19 **~~7.04.445 Individual servings.~~**

20 ~~Individual serving size packages of foods containing less than one half (1/2) ounce or less than~~
21 ~~one half (1/2) fluid ounce for use in restaurants, institutions, and passenger carriers, and not~~
22 ~~intended for sale at retail, shall be exempt from the required declaration of net quantity of~~
23 ~~contents specified in this subchapter.~~

1 ~~**7.04.450 Cuts, plugs, and twists of tobacco and cigars.**~~

2 ~~When individual cuts, plugs, and twists of tobacco and individual cigars are shipped or delivered~~
3 ~~in containers that conform to the labeling requirements of this subchapter, such individual cuts,~~
4 ~~plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements.~~

5 ~~**7.04.455 Reusable (returnable) glass containers.**~~

6 ~~Nothing in this subchapter shall be deemed to preclude the continued use of reusable (returnable)~~
7 ~~glass containers; provided, that such glass containers ordered after the effective date of this code~~
8 ~~shall conform to all requirements of this subchapter.~~

9 ~~**7.04.460 Containers standardized by device regulation.**~~

10 ~~Containers such as milk bottles, lubricating oil bottles, and measure containers, for which~~
11 ~~standards are established and specifications are set forth in National Bureau of Standards~~
12 ~~Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Commercial~~
13 ~~Weighing and Measuring Devices," shall be exempt from the requirements as set forth in~~
14 ~~Sections 7.04.395 through 7.04.425.~~

15 ~~**7.04.465 Packaged commodities with labeling requirements specified in federal law.**~~

16 ~~Packages of meat and meat products, poultry and poultry products, tobacco and tobacco~~
17 ~~products, insecticides, fungicides, rodenticides, prescription drugs, alcoholic beverages, and~~
18 ~~seeds shall be exempt from the requirements set forth in Sections 7.04.275 through 7.04.425;~~
19 ~~provided, that quantity labeling requirements for such products are specified in federal law or~~
20 ~~regulations issued pursuant to federal law, so as to follow reasonably sound principles of~~
21 ~~providing consumer information.~~

22 ~~**7.04.470 Fluid dairy products, ice cream, and similar frozen desserts.**~~

1 ~~When packages of fluid dairy products and packages of ice cream and similar frozen desserts are~~
2 ~~standardized by law or regulation of the state, such packages shall be exempt from the~~
3 ~~requirements in this subchapter for Sections 7.04.345 and 7.04.400.~~

4 ~~**7.04.475 Variations from declared net quantity.**~~

5 ~~Variations from the declared net weight, measure, or count shall be permitted when caused by~~
6 ~~unavoidable deviations in weighing, measuring, or counting the contents of individual packages~~
7 ~~that occur in good packaging practice, but such variations shall not be permitted to such extent~~
8 ~~that the average of the quantities in the packages of a particular commodity comprising either a~~
9 ~~shipment or other delivery of the commodity, or a lot of the commodity that is kept, offered, or~~
10 ~~exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any~~
11 ~~package shall be permitted, even though overages in other packages in the same shipment,~~
12 ~~delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be~~
13 ~~unreasonably large.~~

14 ~~**7.04.480 Variations resulting from exposure.**~~

15 ~~Variations from the declared weight or measure shall be permitted when caused by ordinary and~~
16 ~~customary exposure to conditions that normally occur in good distribution practice and that~~
17 ~~unavoidably result in change of weight or measure, but only after the commodity is introduced~~
18 ~~into intrastate commerce; provided, that the phrase "introduced into intrastate commerce" as used~~
19 ~~in this section shall be construed to define the time and the place at which the first sale and~~
20 ~~delivery of a package is made within the state, the delivery being either:~~

21 ~~A. Directly to the purchaser or to his agent; or~~

22 ~~B. To a common carrier for shipment to the purchaser; and this paragraph shall be~~
23 ~~construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular~~

1 ~~commodity remains in the possession or under the control of the packager or the person who~~
2 ~~introduces the package into intrastate commerce, exposure variations shall not be permitted.~~

3 **~~7.04.485 Variations to be determined by individual cases.~~**

4 ~~The magnitude of variations permitted under Sections 7.04.475 and 7.04.480 shall, in the case of~~
5 ~~any shipment, delivery, or lot, be determined by the facts in the individual case.~~

6 **~~Subchapter VI Sale by Net Weight~~**

7 **~~7.04.500 Weight defined.~~**

8 ~~"Weight," as used in this Code in connection with any commodity, shall mean net weight.~~

9 ~~Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall~~
10 ~~be employed, and all contracts concerning commodities shall be so construed.~~

11 **~~7.04.505 Misrepresentation of price.~~**

12 ~~Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by~~
13 ~~weight, measure, or count, the price shall not be misrepresented, nor shall the price be~~
14 ~~represented in any manner calculated or tending to mislead or deceive an actual or prospective~~
15 ~~purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count~~
16 ~~includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the~~
17 ~~numeral or numerals expressing the fraction shall be immediately adjacent to, of the same~~
18 ~~general design and style as, and at least one half (1/2) the height and width of the numerals~~
19 ~~representing the whole cents.~~

20 **~~7.04.510 Meat, poultry, and seafood.~~**

21 ~~Except for immediate consumption on the premises where sold, or as one of several elements~~
22 ~~comprising a ready-to-eat meal sold, as a unit, for consumption elsewhere than on the premises~~
23 ~~where sold, all meat, meat products, poultry (whole or parts), and all seafood including shellfish,~~

1 ~~offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by~~
2 ~~weight. When meat, poultry, or seafood is combined with or associated with some other food~~
3 ~~element or elements to form either a distinctive food product or a food combination, such food~~
4 ~~product or combination shall be offered or exposed for sale and sold by weight.~~

5 **~~7.04.515 Bread.~~**

6 ~~No person shall manufacture for sale, sell or offer or expose for sale, any bread except in the~~
7 ~~following weights, which shall be the net weight at least twelve (12) hours after baking:~~
8 ~~"standard small loaf," which shall weigh not less than fifteen (15) ounces and not more than~~
9 ~~seventeen (17) ounces; "standard large loaf," which shall weigh not less than twenty-two and~~
10 ~~one-half (22½) ounces and not more than twenty-five and one-half (25½) ounces; or multiples of~~
11 ~~the foregoing weights for the standard small loaf and standard large loaf; provided, that~~
12 ~~variations at the rate of one (1) ounce over and one (1) ounce under the foregoing, per standard~~
13 ~~small loaf, or one and one-half (1½) ounce over or under the foregoing, per standard large loaf,~~
14 ~~or any multiple of the foregoing variations per each multiple type loaf, in the above specified~~
15 ~~unit weights are permitted in individual loaves, but the average weight of not less than twelve~~
16 ~~(12) loaves of any kind of loaf shall not be less than the weight prescribed in this section. It shall~~
17 ~~be unlawful to sell or expose for sale bread in a loaf of such form that it has the appearance and~~
18 ~~size of a loaf of greater weight.~~

19 **~~7.04.520 Butter, oleomargarine, and margarine.~~**

20 ~~Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight,~~
21 ~~and only in units of one-quarter (1/4) pound, one-half (½) pound, one pound, or multiples of one~~
22 ~~(1) pound, avoirdupois weight.~~

23 **~~7.04.525 Fluid dairy products.~~**

1 ~~All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk,~~
2 ~~sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of one (1)~~
3 ~~gill, one half (1/2) liquid pint, ten (10) fluid ounces, one (1) liquid pint, one (1) liquid quart, one~~
4 ~~half (1/2) gallon, one (1) gallon, one and one half (1 1/2) gallons, two (2) gallons, two and one half~~
5 ~~(2 1/2) gallons, or multiples of one (1) gallon; provided, that packages in units of less than one (1)~~
6 ~~gill shall be permitted.~~

7 **~~7.04.530 Flour, cornmeal, and hominy grits.~~**

8 ~~When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour,~~
9 ~~whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour,~~
10 ~~enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, cornmeal, and~~
11 ~~hominy grits shall be packaged only in units of five (5), ten (10), twenty-five (25), fifty (50) or~~
12 ~~one hundred (100) pounds, avoirdupois weight; provided, that packages in units of less than five~~
13 ~~(5) pounds or more than one hundred (100) pounds shall be permitted.~~

14 **~~7.04.535 Bulk deliveries sold in terms of weight and delivered by vehicle.~~**

15 ~~When a vehicle delivers to an individual purchaser a commodity in bulk, and the commodity is~~
16 ~~sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket~~
17 ~~with the following information clearly stated, in ink or by means of other indelible marking~~
18 ~~equipment and, in clarity, equal to type or printing: (A) the name and address of the vendor, (B)~~
19 ~~the name and address of the purchaser, and (C) the net weight of the delivery expressed in~~
20 ~~pounds; and if the net weight is derived from determinations of gross and tare weights, such~~
21 ~~gross and tare weights also shall be stated in terms of pounds. One of these tickets shall be~~
22 ~~retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of~~
23 ~~the commodity, or shall be surrendered, on demand, to the City Sealer or Deputy Sealer, who, if~~

1 ~~he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the~~
2 ~~purchaser; provided, that if the purchaser, himself, carries away his purchase, the vendor shall be~~
3 ~~required only to give to the purchaser at the time of sale a delivery ticket stating the number of~~
4 ~~pounds of commodity delivered to him.~~

5 **~~7.04.540 Furnace and stove oil.~~**

6 ~~All furnace and stove oil shall be sold by liquid measure or by net weight in accordance with the~~
7 ~~provisions of Section 7.04.200. In the case of each delivery of such liquid fuel not in package~~
8 ~~form and in an amount greater than ten (10) gallons in the case of sale by liquid measure or one~~
9 ~~hundred (100) pounds in the case of sale by weight, there shall be rendered to the purchaser,~~
10 ~~either: (A) at the time of delivery or (B) within a period mutually agreed upon in writing or~~
11 ~~otherwise between the vendor and the purchaser, a delivery ticket or a written statement on~~
12 ~~which, in ink or by means of other indelible marking equipment and, in clarity, equal to type or~~
13 ~~printing, there shall be clearly stated: (1) the name and address of the vendor, (2) the name and~~
14 ~~address of the purchaser, (3) the identity of the type of fuel comprising the delivery, (4) the unit~~
15 ~~price (that is, the price per gallon or per pound, as the case may be) of the fuel delivered, (5) in~~
16 ~~the case of sale by liquid measure, the liquid volume of the delivery, together with any meter~~
17 ~~readings from which such liquid volume has been computed, expressed in terms of the gallon~~
18 ~~and its binary or decimal subdivisions, and (6) in the case of sale by weight, the net weight of the~~
19 ~~delivery, together with any weighing scale readings from which such net weight has been~~
20 ~~computed, expressed in terms of tons or pounds avoirdupois.~~

21 **~~7.04.545 Berries and small fruits.~~**

22 ~~Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure~~
23 ~~in open containers having capacities of one half (1/2) dry pint, one (1) dry pint, or one (1) dry~~

1 ~~quart; provided, that the marking provisions of Section 7.04.205 shall not apply to such~~
2 ~~containers.~~

3 **~~Subchapter VII Weighmaster License~~**

4 **~~7.04.565 License required.~~**

5 ~~It is unlawful for any person, firm or corporation, to become, act as, or hold himself/herself out~~
6 ~~to be a City Weighmaster, or a City Weigher, without first obtaining and being the holder of a~~
7 ~~valid and subsisting license so to do, to be known as a "City Weighmaster license" and/or a "City~~
8 ~~Weigher license."~~

9 **~~7.04.570 Weighmaster license—Application, issuance and fee.~~**

10 ~~Any person, firm or corporation possessing a scale that complies with the specifications,~~
11 ~~tolerances, and other technical requirements for weighing devices, together with amendments~~
12 ~~thereto, as recommended by the National Bureau of Standards and published in National Bureau~~
13 ~~of Standards Handbook 44, may make application to the City Sealer to be appointed a Licensed~~
14 ~~City Weighmaster. If the scale is approved by the City Sealer, he or she may in his or her~~
15 ~~discretion so appoint the applicant and shall issue a City Weighmaster license in accordance with~~
16 ~~such appointment. The annual fee for such license shall be \$40.00 which shall accompany the~~
17 ~~application, and all such licenses shall expire at midnight April 30th of each year, but may be~~
18 ~~renewed from year to year by the City Sealer upon payment of the annual fee. If the original~~
19 ~~application for a City Weighmaster's license and/or a City Weigher's license is made within six~~
20 ~~months of the date fixed for expiration of the annual license, the fee shall be ½ the annual fee.~~

21 **~~7.04.575 Weigher license application.~~**

22 ~~Such license shall authorize the holder to apply in writing to the City Sealer for appointment of~~
23 ~~such holder or one (1) or more of his or her employees or the officers if a corporation, as a~~

1 ~~Licensed City Weigher. If the City Sealer finds that the prospective appointee has ability to~~
2 ~~correctly weigh and use the scale and determine the gross, tare and net weights of any article or~~
3 ~~commodity which he/she weighs, the City Sealer may so appoint and issue a City Weigher~~
4 ~~license in accordance with such appointment.~~

5 **~~7.04.580 Authorization to issue certificates of weights.~~**

6 ~~Such license shall authorize the holder to issue certified weight certificates at the location~~
7 ~~designated in the license in conformity with the standards of weights and measures authorized~~
8 ~~and established by this Code. The license shall expire at midnight April 30th of each year and~~
9 ~~may be renewed from year to year by the City Sealer. Such license shall authorize the Licensed~~
10 ~~City Weigher in the name of the Licensed City Weighmaster to issue certificates of weights only~~
11 ~~at the location designated in his/her license and shall not be transferable from one (1) person to~~
12 ~~another nor from one (1) location to another.~~

13 **~~7.04.585 Renewal of license — Late fees.~~**

14 ~~A. Any person who has held a license in the previous license year for which an annual~~
15 ~~license period is prescribed and who continues to engage in the activity shall, upon failure to~~
16 ~~make timely application for renewal of the license, pay a late renewal fee as follows:~~

17 ~~1. If the renewal application is received after the date of expiration of the previous~~
18 ~~license but before the end of thirty (30) days into the new license year: ten percent (10%) of the~~
19 ~~annual license fee or Ten Dollars (\$10.00) whichever is greater;~~

20 ~~2. If the renewal application is received after thirty (30) days into the new license~~
21 ~~year: twenty percent (20%) or Twenty five Dollars (\$25.00), whichever is greater.~~

22 ~~B. No annual license shall be issued until any late renewal fee has been paid; provided,~~
23 ~~that payment of the late renewal fee may be waived whenever the Director finds that timely~~

1 ~~application was beyond the control of the licensee by reason of severe circumstances; for~~
2 ~~example, serious illness of the licensee, death or incapacity of an accountant or other person who~~
3 ~~retains possession of the licensee's license records, loss of business records due to theft, fire,~~
4 ~~flood or other similar acts.~~

5 **~~7.04.590 Duties of Licensed City Weigher.~~**

6 ~~Any Licensed City Weigher shall at any time without charge weigh any article or commodity on~~
7 ~~the scale for which he/she is licensed, brought there by the City Sealer or any Deputy Sealer, and~~
8 ~~issue a certificate of weight therefor; and he/she shall without charge weigh upon such scale, and~~
9 ~~issue a certificate of weight therefor, on any article or commodity for which the Licensed City~~
10 ~~Weighmaster is vendor. The delivery or sales ticket required by this code to be delivered to the~~
11 ~~consumer shall bear thereon a statement which shall be signed by the Licensed City Weigher for~~
12 ~~the Licensed City Weighmaster to the effect that the weight shown thereon is true and correct~~
13 ~~and shall also bear an impression of a seal of the Licensed City Weighmaster which shall be~~
14 ~~placed thereon by the Licensed City Weigher who actually weighs the article or commodity. The~~
15 ~~Licensed City Weighmaster shall by himself/herself or through his/her Licensed City Weigher~~
16 ~~keep a record of each certified weight issued in his/her name, which record shall be open to~~
17 ~~inspection by the City Sealer or any Deputy Sealer during all business hours.~~

18 **~~7.04.595 Seal presses.~~**

19 ~~The seal presses required to be used for certification shall be the property of the City and shall be~~
20 ~~forfeited and returned to the City Sealer upon revocation or termination of the appointment of the~~
21 ~~Licensed City Weighmaster. Such seals shall be of a form and design prescribed by the City~~
22 ~~Sealer and secured from him/her at the expense of the Licensed City Weighmaster.~~

23 **~~7.04.600 Weighing of vehicles.~~**

1 ~~The City Sealer or any Deputy Sealer may require the driver of any vehicle containing any~~
2 ~~commodity that has been weighed by a Licensed City Weigher to again visit the same scale or~~
3 ~~another scale and to again weigh such commodity or article and/or vehicle for gross, tare and net~~
4 ~~weights, and it shall be unlawful for such driver to refuse so to do. In event the weights certified~~
5 ~~by such Licensed City Weigher shall be found incorrect, the City Sealer or Deputy Sealer shall~~
6 ~~retain the delivery ticket thus certified in his/her possession and require the issuance of a new~~
7 ~~and correct certified delivery ticket. It shall be unlawful to issue, use or deliver any false,~~
8 ~~incomplete or irregular certified delivery ticket.~~

9 **~~7.04.605 Only authorized persons to certify weights.~~**

10 ~~It shall be unlawful for any person other than the City Sealer or Deputy Sealer or a Licensed City~~
11 ~~Weigher to certify the weights of any commodity and no such Weigher shall use any motor truck~~
12 ~~scale and issue a certificate of weight thereon for less than one thousand (1,000) pounds.~~

13 **~~7.04.610 Revocation of appointment.~~**

14 ~~The City Sealer may revoke the appointment of any such Weighmaster or Weigher not~~
15 ~~conforming to the requirements of this Code and no compensation shall be paid by the City to~~
16 ~~any such Weighmaster or Weigher.~~

17 **~~7.04.615 Delivery of certificate to consumer.~~**

18 ~~It is unlawful to deliver any commodity or article weighed by a Licensed City Weigher to any~~
19 ~~consumer unless the certificate of weight thereof on a form approved by the City Sealer is~~
20 ~~delivered to the consumer at the time of the delivery of the article or commodity; provided, that~~
21 ~~when a Licensed City Weighmaster is the buyer of any commodity and weighs such he shall~~
22 ~~deliver to the seller of such commodity a certificate of weight on a form approved by the City~~
23 ~~Sealer.~~

1 ~~**7.04.620 Alteration of weight or certificate prohibited.**~~

2 ~~It is unlawful for any person to alter, vary or lessen the weight or measure of any load of any~~
3 ~~commodity commonly sold by weight or measure, after the same has been weighed upon the~~
4 ~~vendor's scale, or has been officially weighed or measured, by abstracting or unloading~~
5 ~~therefrom any portion of such commodity, except at the place where the same was directed by~~
6 ~~the buyer to be delivered, or to alter or change any weight slip or Deputy Weighmaster's~~
7 ~~certificate accompanying such delivery.~~

8 ~~**7.04.625 Use of official tickets, certificates or statements.**~~

9 ~~It is unlawful to use, exhibit, issue or deliver any weight ticket, certificate of weight or measure~~
10 ~~or statement of weight or measure of any kind on which in whole or in part is impressed or~~
11 ~~stamped by seal, or otherwise, or printed or written, or set forth thereon in any manner, the words~~
12 ~~"City of Seattle," or name of any department or division, office or officer or employee of the~~
13 ~~City, unless authorized by this Code.~~

14 ~~**7.04.630 Surrender of license to City Sealer.**~~

15 ~~Upon revocation of any City Weighmaster's license, such license and all City Weigher's licenses~~
16 ~~issued under the City Weighmaster's license, shall be surrendered to the City Sealer. A City~~
17 ~~Weighmaster, upon termination of employment of any Licensed City Weigher, or upon~~
18 ~~revocation of any City Weigher's license, shall surrender such license to the City Sealer.~~

19 ~~**Subchapter VIII Special Inspection Service))**~~

20 ~~**7.04.645 Registration—Fees**~~

21 ~~A. Except as provided in subsection 7.04.645.F, no weighing or measuring instrument or~~
22 ~~device, or electronic price scanning system, may be used for commercial purposes in the City~~

1 unless its commercial use is registered annually with the Department of Finance and
2 Administrative Services.

3 B. The annual registration with the Department of Finance and Administrative Services
4 for weighing or measuring instruments or devices is accomplished as part of the State of
5 Washington master license system under chapter 19.02 RCW. Payment of an annual registration
6 fee for a weighing or measuring instrument or device under the State of Washington master
7 license system constitutes the registration required by this Section 7.04.645. The annual
8 registration with the Department of Finance and Administrative Services for electronic price
9 scanning systems is accomplished as part of the annual business license requirement under
10 Chapter 6.208. Payment of the registration fee with the annual business license application or
11 renewal constitutes the registration required by this Section 7.04.645.

12 C. The following annual City registration fees must be paid for each weighing or
13 measuring instrument or device used for commercial purposes in The City of Seattle:

14 1. Weighing devices:

15 a. Small scales (~~("zero")) 0~~ to 400 pounds capacity(("))): \$~~((40))~~16.

16 b. Intermediate scales (~~("401")) (Over 400~~ pounds to 5,000 pounds
17 capacity(("))): \$~~((40))~~60.

18 c. Large scales (~~("over")) (Over 5,000~~ pounds capacity(("))): \$~~((75))~~120.

19 d. Railroad track scales: \$~~((800))~~1200.

20 2. Liquid fuel metering devices:

21 a. Motor fuel meters with flows of 20 gallons or less per minute:

22 \$~~((40))~~16.

1 b. Motor fuel meters with flows of more than 20 but not more than 150
2 gallons per minute: \$~~((32))~~50.

3 c. Motor fuel meters with flows over 150 gallons per minute: \$~~((50))~~75.

4 3. Liquid petroleum gas meters:

5 a. With 1-inch diameter or smaller dispensers: \$~~((25))~~40.

6 b. With greater than 1-inch diameter dispensers: \$~~((50))~~80.

7 4. Fabric meters: \$~~((40))~~15.

8 5. Cordage meters: \$~~((40))~~15.

9 6. Mass flow meters: \$~~((200))~~300.

10 7. Taxi meters: \$~~((25))~~40.

11 D. The following annual City registration fees must be paid for each electronic price
12 scanning system used for commercial purposes in The City of Seattle:

13 1. Electronic price scanning systems with three or fewer electronic pricing
14 devices: \$158.

15 2. Electronic price scanning systems with more than three electronic price
16 scanning devices: \$315.

17 E. The fees established in subsection 7.04.645.C for registering a weighing or measuring
18 instrument or device shall be paid to the State of Washington Department of Licensing
19 concurrently with a master application or with the annual renewal of a master license under
20 chapter 19.02 RCW (~~Chapter 19.02~~). The fees established for electronic pricing systems in
21 subsection 7.04.645.D shall be paid with The City of Seattle annual business license application
22 or renewal.

1 F. A weighing or measuring instrument or device, or electronic price scanning system,
2 shall be initially registered with the Department of Finance and Administrative Services as
3 follows: A weighing or measuring device is initially registered through the State of Washington
4 Department of Licensing at the time the owner applies for a master license for a new business or
5 at the first renewal of the license that occurs after the instrument or device is first placed into
6 commercial use. An electronic price scanning system is initially registered through the
7 Department of Finance and Administrative Services when the owner applies for an initial
8 business license or the first renewal of the business license after the instrument or device is first
9 placed into commercial use.

10 G. The State of Washington Department of Licensing shall remit to The City of Seattle,
11 through the State of Washington Department of Agriculture, all fees collected under this Section
12 7.04.645 less reasonable collection expenses.

13 H. With the exception of Section 7.04.650, no person shall be required to pay more than
14 the fee adopted under this Section 7.04.645 for any weighing or measuring instrument or device,
15 or electronic price scanning system, in one year.

16 ~~((I. A person who owns a weighing or measuring instrument or device, or electronic price
17 scanning system, and uses or permits its use for commercial purposes without registration as
18 provided in subsection 7.04.645.A is subject to a civil penalty of \$50 per occurrence for each
19 instrument or device, or system, used, or permitted to be used.))~~

20 **7.04.650 Request for service(())**

21 A. "Special inspection service," as used in this ~~((Code))~~ code, ~~((shall denote))~~ means all
22 inspection service made on the owner's request. Special inspection service fees are additional to

1 the fees required under the annual registration. Special inspection service fees are to be paid
2 directly to ~~((The City of Seattle))~~ the Department of Finance and Administrative Services.

3 B. The fee~~((s))~~ for special inspection service shall be ~~((as follows:~~

4 ~~\$30 PER HOUR OF INSPECTOR TIME WITH A ONE HOUR MINIMUM.)~~ \$60 per
5 hour of inspector time with a one hour minimum. All inspections will result in an invoice to the
6 owner for each hour of inspection per inspector. The invoice shall reflect time spent per
7 inspector, to include preparation and travel time to the site with any time spent past an hour
8 billed to the next quarter hour. ~~((EXAMPLE))~~ Example: If two inspectors took one hour and 20
9 minutes to complete an inspection, the invoice would total ~~\$((90))~~ 180 (two inspectors at 1.5
10 hours each).

11 ~~**((Subchapter IX Enforcement**~~

12 ~~**7.04.675 Construction of contracts.**~~

13 ~~Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of~~
14 ~~such unit as prescribed or defined in Sections 7.04.015, 7.04.035, 7.04.075 and 7.04.100, and all~~
15 ~~contracts concerning the sale of commodities and services shall be construed in accordance with~~
16 ~~this requirement.~~

17 ~~**7.04.680 Hindering or obstructing City Sealer.**~~

18 ~~It is unlawful for any person to hinder or obstruct in any way the City Sealer or any Deputy~~
19 ~~Sealer in the performance of his official duties, and anyone convicted of a violation of this~~
20 ~~section shall be punishable by a fine of not less than Twenty Dollars (\$20) or more than Two~~
21 ~~Hundred Dollars (\$200), or by imprisonment for not more than three (3) months, or by both such~~
22 ~~fine and imprisonment.~~

23 ~~**7.04.685 Impersonation of City Sealer.**~~

1 ~~It is unlawful for any person to impersonate in any way the City Sealer or Deputy Sealer by the~~
2 ~~use of his seal or a counterfeit of his seal, or in any other manner, and anyone convicted of a~~
3 ~~violation of this section shall be punishable by a fine of not less than One Hundred Dollars~~
4 ~~\$100.00 or more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six~~
5 ~~(6) months, or by both such fine and imprisonment.)~~)

6 **7.04.690 ((~~Offenses and penalties.~~) Violations**

7 ((A. It is unlawful for any person, by himself or by his servant or agent, or as the servant
8 or agent of another person, to:

9 1. Use, or have in possession for the purpose of using, for any commercial
10 purpose specified in Section 7.04.145, or sell, offer, or expose for sale or hire, or have in
11 possession for the purpose of selling or hiring, an incorrect weight or measure or any device or
12 instrument used to or calculated to falsify any weight or measure, or electronically scanned price;

13 2. Use, or have in possession for the purpose of current use, for any commercial
14 purpose specified in Section 7.04.145, a weighing or measuring instrument or device, or
15 electronic price scanning system, that does not bear a seal or mark such as is specified in Section
16 7.04.165, unless it has been exempted from testing by the provisions of Section 7.04.145;

17 3. Dispose of any rejected or condemned weight or measure, or electronic price
18 scanning system, in a manner contrary to law;

19 4. Remove from any weight or measure, or electronic price scanning system,
20 contrary to law, any tag, seal, or mark placed thereon by the appropriate authority;

21 5. Sell, or offer or expose for sale, less than the quantity represented of any
22 commodity, thing, or service;

1 ~~6. Take more than the quantity represented of any commodity, thing or service~~
2 ~~when, as buyer, the person furnishes the weight or measure device by means of which the~~
3 ~~amount of the commodity, thing, or service is determined;~~

4 ~~7. Keep for the purpose of sale, advertise, or offer or expose for sale, or sell, any~~
5 ~~commodity, thing, or service in a condition or manner contrary to law;~~

6 ~~8. Use in retail trade, except in the preparation of packages put up in advance of~~
7 ~~sale and of medical prescriptions, a weight or measure that is not so positioned that its~~
8 ~~indications may be accurately read and the weighing or measuring operation observed from some~~
9 ~~position which may reasonably be assumed by a customer;~~

10 ~~9. Violate any provision of this code for which a specific penalty has not been~~
11 ~~prescribed.~~

12 ~~B. Anyone convicted of a violation of this section shall upon a first conviction thereof, be~~
13 ~~punishable by a fine of not less than Twenty Dollars (\$20.00) or more than Two Hundred Dollars~~
14 ~~(\$200.00), or by imprisonment for not more than three (3) months, or by both such fine and~~
15 ~~imprisonment; and upon a second or subsequent conviction thereof, shall be punishable by a fine~~
16 ~~of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00), or by~~
17 ~~imprisonment for not more than six (6) months, or by both such fine and imprisonment.))~~

18 A. RCW 19.94.190(1) states that “duly appointed city sealers must enforce the provisions
19 of” chapter 19.94 RCW. However, because Seattle also inspects electronic price scanning
20 systems, and because Seattle has its own citation process in Section 7.04.691 to address
21 violations, subsections of this Section 7.04.690 restate and modify certain sections of chapter
22 19.94 RCW as they are applied and enforced in Seattle.

1 B. Modified RCW 19.94.325(3). A service agent shall not use any weight or measure
2 standard that does not have a valid, official seal of approval from the director, as defined in
3 RCW 19.94.010, to install, inspect, adjust, repair, or recondition any weighing or measuring
4 instrument or device. Any service agent who violates this subsection 7.04.690.B is subject to a
5 civil penalty up to \$1,000 per occurrence.

6 C. RCW 19.94.390(1). Whenever any commodity or service is sold, or is offered,
7 exposed, or advertised for sale, by weight, measure, or count, the price shall not be
8 misrepresented, nor shall the price be represented in any manner calculated or tending to mislead
9 or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price
10 per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction
11 shall be prominently displayed and the numeral or numerals expressing the fraction shall be
12 immediately adjacent to, of the same general design and style as, and at least one-half the height
13 and one-half the width of the numerals representing the whole cents.

14 D. Modified RCW 19.94.490. Any person who hinders or obstructs in any way the City
15 Sealer in the performance of official duties under chapter 19.94 RCW or the rules adopted under
16 the provisions of chapter 19.94 RCW, or this code is subject to a civil penalty up to \$5,000.

17 E. Modified RCW 19.94.500. Any person who impersonates in any way the City Sealer
18 by using an official seal of approval without specific authorization to do so or by using a
19 counterfeit seal of approval, or in any other manner, is subject to a civil penalty up to \$5,000 per
20 occurrence.

21 F. Modified RCW 19.94.510(2). Any person who individually, by an agent or employee,
22 or as the agent or employee of another person, performs any one of the acts in this subsection
23 7.04.690.F is subject to a civil penalty up to \$5,000 per occurrence:

1 1. Use or have in possession for the purpose of using for any commercial purpose
2 a weighing or measuring instrument or device or electronic price scanning system that is
3 intentionally calculated to falsify any weight, measure, count, or price of any commodity, or to
4 sell, offer, expose for sale, or hire or have in possession for the purpose of selling or hiring an
5 incorrect weighing or measuring instrument or device or electronic price scanning system, or any
6 weighing or measuring instrument or device or electronic price scanning system calculated to
7 falsify any weight, measure, count, or price.

8 2. Knowingly use or have in possession for current use in the buying or selling of
9 any commodity or thing, for hire or award, or in the computation of any basic charge or payment
10 for services rendered on the basis of weight, measurement, or count, in the determination of
11 weight, measurement, or count, when a charge is made for such determination, any incorrect
12 weighing or measuring instrument or device.

13 3. Dispose of any rejected weighing or measuring instrument or device in a
14 manner contrary to law or rule.

15 4. Remove from any weighing or measuring instrument or device or electronic
16 price scanning system, contrary to law or rule, any tag, seal, stamp, or mark placed thereon by
17 the director, as defined in RCW 19.94.010, or City Sealer.

18 5. Sell, offer, or expose for sale less than the quantity the person represents of any
19 commodity, thing, or service.

20 6. Take more than the quantity the person represents of any commodity, thing, or
21 service known to be in a condition or manner contrary to law or rule.

22 7. Keep for the purpose of sale, advertise, offer, or expose for sale or sell any
23 commodity, thing, or service known to be in a condition or manner contrary to law or rule.

1 8. Use in retail trade, except in the preparation of packages put up in advance of
2 sale and of medical prescriptions, a weighing or measuring instrument or device or electronic
3 price scanning system that is not so positioned that its indications may be accurately read and the
4 weighing or measuring operation observable from some position which may reasonably be
5 assumed by a customer.

6 9. Knowingly approve or issue an official seal of approval for any weighing or
7 measuring instrument or device known to be incorrect.

8 10. Find a weighing or measuring instrument or device to be correct under RCW
9 19.94.255 when the person knows the instrument or device is incorrect.

10 11. Fails to disclose to the City Sealer any knowledge of information relating to,
11 or observation of, any device or instrument added to or modifying any weighing or measuring
12 instrument or device or electronic price scanning system for the purpose of selling, offering, or
13 exposing for sale, less than the quantity represented of a commodity or calculated to falsify
14 weight or measure, if the person is a service agent.

15 12. Violate any other provision of chapter 19.94 RCW or the rules adopted under
16 the provisions of chapter 19.94 RCW, or this code, for which a specific penalty has not been
17 described.

18 G. Modified RCW 19.94.510(3). Any person who, individually, by an agent or employee,
19 or as the agent or employee of another person, violates RCW 19.94.390 as determined by the
20 examination procedure adopted by or under RCW 19.94.390(2) is subject to a civil penalty of up
21 to \$2,000 per occurrence.

22 H. Modified RCW 19.94.510(4)(b). Any person who, individually, by an agent or
23 employee, or as the agent or employee or another person, commits as a fourth or subsequent

1 violation any of the acts listed in subsections 7.04.690.F or 7.04.690.G is subject to a civil
2 penalty up to \$10,000 per violation per occurrence. A violation will count toward the total in this
3 subsection 7.04.690.H whether the enforcement was taken by Washington State, Seattle, or
4 another jurisdiction in Washington.

5 I. Modified RCW 19.94.510(4)(a). Any person who, individually, by an agent or
6 employee, or as the agent or employee or another person, knowingly adds to or modifies any
7 weighing or measuring instrument or device or electronic price scanning system by the addition
8 of a device or instrument that would allow the sale, or the offering of exposure for sale, of less
9 than the quantity represented of a commodity or falsification of weight or measure is subject to a
10 civil penalty of up to \$10,000 per violation per occurrence.

11 J. Modified RCW 19.94.515. A person who owns or uses a weighing or measuring
12 instrument or device or electronic price scanning system and uses or permits the use of the
13 instrument for commercial purposes in violation of RCW 19.94.015 is subject to a civil penalty
14 of \$100 for each such instrument or device used or permitted to be used in violation of RCW
15 19.94.015.

16 K. Modified RCW 19.94.517

17 1. Whenever the City Sealer tests or inspects a weighing or measuring instrument
18 or device and finds the instrument or device to be incorrect to the economic benefit of the
19 owner/operator of the weighing or measuring instrument or device and to the economic
20 detriment of the customer, the owner is subject to the following civil penalties:

<u>Penalties in dollars for device deviations outside the tolerances stated in Handbook 44, as adopted and modified by Section 7.04.105</u>		
<u>Category of weighing or measuring instrument or device</u>	<u>First violation</u>	<u>Second or subsequent violation within one year of first violation</u>
<u>Small</u>	<u>200</u>	<u>500</u>

<u>Medium</u>	<u>400</u>	<u>1,000</u>
<u>Large</u>	<u>500</u>	<u>2,000</u>

1 A violation will count toward the total in this subsection 7.04.690.K whether the
2 enforcement was taken by Washington State, Seattle, or another jurisdiction in Washington.

3 2. For the purposes of this subsection 7.04.690.K, the categories of weighing or
4 measuring instruments or devices are:

5 a. Small: Scales of 0-400 pounds capacity, liquid fuel metering devices
6 with flows of not more than 20 gallons per minute, liquid petroleum gas meters with dispensers
7 of 1 inch diameter or smaller, fabric meters, cordage meters, and taxi meters.

8 b. Medium: Scales of 401-5,000 pounds capacity, liquid fuel metering
9 devices with flows of more than 20 but not more than 150 gallons per minute, and mass flow
10 meters.

11 c. Large: Liquid petroleum gas meters with greater than 1 inch diameter
12 dispensers, liquid fuel metering devices with flows over 150 gallons per minute, and scales of
13 more than 5,000 pounds capacity and scales of more than 5,000 pounds capacity with
14 supplemental devices.

15 **7.04.691 Citation process**

16 If after investigation the Director determines that any of the provisions listed in chapter 19.94
17 RCW or the rules adopted under the provisions of chapter 19.94 RCW, or this code, have been
18 violated, the Director may issue a civil citation to the person responsible for the violation.

19 A. Citation. The civil citation shall include the following information: (1) the name and
20 address of the person to whom the citation is issued; (2) a separate statement of each provision
21 violated; (3) the date of the violation; (4) a statement that the person cited must respond to the
22 civil citation within 15 calendar days after service; (5) a space for entry of the applicable penalty;

1 (6) a statement that a response must be sent to the Hearing Examiner and received not later than
2 5 p.m. on the day the response is due; (7) contact information for the Hearing Examiner where
3 the citation is to be filed; (8) a statement that the citation represents a determination that a
4 violation has been committed by the person named in the citation and that the determination shall
5 be final unless contested as provided in this code; and (9) a certified statement of the Director's
6 representative issuing the citation, authorized by RCW 5.50.050, setting forth facts supporting
7 issuance of the citation.

8 B. Service. The citation shall be served by first-class mail, addressed to the operator or
9 other person responsible for the violation. Service shall be deemed complete three days after the
10 mailing. If a citation sent by first-class mail is returned as undeliverable, service may be made by
11 posting the citation at a conspicuous place on the property where the violation occurred and
12 service shall be complete on the date of posting. The citation may also be served in person.

13 C. Response to citations

14 1. A person cited must respond to a citation in one of the following ways:

15 a. Paying the amount of the monetary penalty specified in the citation, in
16 which case the record shall show a finding that the person cited committed the violation; or

17 b. Requesting in writing a mitigation hearing to explain the circumstances
18 surrounding the commission of the violation and providing an address to which notice of such
19 hearing may be sent; or

20 c. Requesting in writing a contested hearing specifying the reason why the
21 cited violation did not occur or why the person cited is not responsible for the violation, and
22 providing an address to which notice of such hearing may be sent.

1 2. A response to a citation must be received by the Office of the Hearing

2 Examiner no later than 15 calendar days after the date the citation is served. When the last day of
3 the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall
4 run until 5 p.m. on the next business day.

5 3. Failure to respond. If a person fails to respond to a citation within 15 calendar

6 days of service, an order shall be entered by the Hearing Examiner finding that the person cited
7 committed the violation stated in the citation and assessing the penalty specified in the citation.

8 D. Hearings

9 1. Mitigation hearings

10 a. Date and notice. If a mitigation hearing is requested, the mitigation

11 hearing shall be held within 30 calendar days after written response to the citation requesting
12 such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the
13 hearing shall be sent to the address specified in the request for hearing not less than ten calendar
14 days prior to the date of the hearing.

15 b. Procedure at hearing. The Hearing Examiner shall hold an informal

16 hearing that shall not be governed by the Rules of Evidence. The person cited may present
17 witnesses, but witnesses may not be compelled to attend. A representative from the Department
18 may also be present and may present additional information, but attendance by a representative
19 from the Department is not required.

20 c. Disposition. The Hearing Examiner shall determine whether the cited

21 person's explanation justifies reduction of the monetary penalty; however, the monetary penalty
22 may not be reduced unless the Department of Finance and Administrative Services affirms or
23 certifies that the violation has been corrected prior to the mitigation hearing. Factors that may be

1 considered in whether to reduce the penalty include whether the violation was caused by the act,
2 neglect, or abuse of another; or whether correction of the violation was commenced prior to the
3 issuance of the citation but that full compliance was prevented by a condition or circumstance
4 beyond the control of the person cited.

5 d. Entry of order. After hearing the explanation of the person cited and any
6 other information presented at the hearing, the Hearing Examiner shall enter an order finding that
7 the person cited committed the violation and assessing a monetary penalty in an amount
8 determined pursuant to subsection 7.04.691.E. The Hearing Examiner's decision is the final
9 decision of the City on the matter.

10 2. Contested hearings

11 a. Date and notice. If a person requests a contested hearing, the hearing
12 shall be held within 60 calendar days after the written response to the citation requesting such
13 hearing is received.

14 b. Hearing. Contested hearings shall be conducted pursuant to the
15 procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by
16 the Hearing Examiner for hearing contested cases, except as modified by this Section 7.04.691.
17 The issues heard at the hearing shall be limited to those that are raised in writing in the response
18 to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing
19 Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

20 c. Sufficiency. No citation shall be deemed insufficient for failure to
21 contain a detailed statement of the facts constituting the specific violation which the person cited
22 is alleged to have committed or by reason of defects or imperfections, provided such lack of
23 detail, or defects or imperfections, do not prejudice substantial rights of the person cited.

1 d. Amendment of citation. A citation may be amended prior to the
2 conclusion of the hearing to conform to the evidence presented if substantial rights of the person
3 cited are not thereby prejudiced.

4 e. Evidence at hearing. The certified statement or declaration authorized
5 by RCW 5.50.050 shall be prima facie evidence that a violation occurred and that the person
6 cited is responsible. The certified statement or declaration authorized under RCW 5.50.050 and
7 any other evidence accompanying the report shall be admissible without further evidentiary
8 foundation. Any certifications or declarations authorized under RCW 5.50.050 shall also be
9 admissible without further evidentiary foundation. The person cited may rebut the Department of
10 Finance and Administrative Services' evidence and establish that the cited violation(s) did not
11 occur or that the person contesting the citation is not responsible for the violation.

12 f. Disposition. If the citation is sustained at the hearing, the Hearing
13 Examiner shall enter an order finding that the person cited committed the violation and impose
14 the applicable penalty pursuant to subsection 7.04.691.E. The Hearing Examiner may reduce the
15 monetary penalty in accordance with the mitigation provisions in subsection 7.04.691.D.1.c. If
16 the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall
17 enter an order dismissing the citation.

18 g. Final decision. The Hearing Examiner's decision is the final decision of
19 the City.

20 3. Failure to appear for hearing. Failure to appear for a requested hearing will
21 result in an order being entered finding that the person cited committed the violation stated in the
22 citation and assessing the penalty specified in the citation. For good cause shown and upon terms

1 the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a
2 failure to appear and schedule a new contested hearing date.

3 E. Citation penalty assessments

4 1. In assessing the amount of a civil penalty, the Director must give due
5 consideration to the gravity of the violation and history of previous violations.

6 2. A person found by the Director to have violated one of the provisions listed in
7 chapter 19.94 RCW or the rules adopted under the provisions of chapter 19.94 RCW, or this
8 code shall be subject to a civil penalty as described in Section 7.04.690. The Director may, in an
9 exercise of discretion, issue a warning to the person responsible for the violation if that person
10 has not been previously warned or cited by The City of Seattle for violating chapter 19.94 RCW
11 or the rules adopted under the provisions of chapter 19.94 RCW, or this code.

12 3. Collection of penalties. If the person cited fails to pay a penalty imposed
13 pursuant to this Section 7.04.691, the penalty may be referred to a collection agency. The cost to
14 the City for the collection services will be assessed as costs, at the rate agreed to between the
15 City and the collection agency, and added to the penalty. Alternatively, the City may pursue
16 collection in any other manner allowed by law.

17 4. Each day a separate violation. Each day a person violates or fails to comply
18 with one of the provisions listed in chapter 19.94 RCW or the rules adopted under the provisions
19 of chapter 19.94 RCW, or this code, may be considered a separate violation for which a civil
20 citation may be issued.

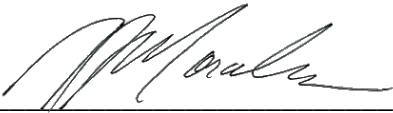
21 ~~((7.04.695 Presumptive evidence.~~

22 ~~For the purposes of this code, proof of the existence of a weight or measure or a weighing or~~
23 ~~measuring device in or about any building, enclosure, stand, or vehicle in which or from which it~~

1 ~~is shown that buying or selling is commonly carried on, shall in the absence of conclusive~~
2 ~~evidence to the contrary, be presumptive proof of the regular use of such weight or measure or~~
3 ~~weighing or measuring device for commercial purposes and of such use by the person in charge~~
4 ~~of such building, enclosure, stand, or vehicle.))~~

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

4 Passed by the City Council the 21st day of February, 2023,
5 and signed by me in open session in authentication of its passage this 21st day of
6 February, 2023.

7 

8 President Pro Tem of the City Council

9 Approved / returned unsigned / vetoed this 28th day of February, 2023.

10 

11 Bruce A. Harrell, Mayor

12 Filed by me this 28th day of February, 2023.

13 

14 Elizabeth M. Adkisson, Interim City Clerk

15 (Seal)