

Amendment 2 – EHT and CPT (CM Licata)

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

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3  
4 AN ORDINANCE relating to taxation for transportation purposes; imposing an employee hours  
5 tax; increasing the commercial parking tax; adding a new Chapter 5.38 to Title 5 of the  
6 Seattle Municipal Code; and amending sections in Chapters 5.30, 5.55, 5.35, and 3.02.

7 WHEREAS, the City of Seattle (“City”) owns and operates a transportation system that is critical  
8 to the safety, social, and economic well-being of its residents and visitors; and

9 WHEREAS, state-shared gas tax revenues for Seattle do not keep up with inflation due to  
10 annexations and incorporations; and

11 WHEREAS, addressing the deteriorating condition of Seattle’s transportation infrastructure will  
12 require substantial annual dedication of resources beyond those currently available; and

13 WHEREAS, it is the intent of the City to use a balanced array of revenue sources, in conjunction  
14 with the Move Seattle levy, to support the maintenance and development of its  
15 transportation infrastructure; and

16 WHEREAS, in 1990, the Washington State Legislature passed legislation that was adopted as  
17 Section 208 of Chapter 42, Laws of Washington, codified at RCW 82.80.030, which  
18 authorized cities to fix and impose a tax for the act or privilege of parking a motor  
19 vehicle in a facility operated by a commercial parking business within its incorporated  
20 boundaries; and

21 WHEREAS, there are numerous commercial parking businesses operating within the City  
22 providing parking for which a fee is paid; and

23 WHEREAS, the proceeds of the commercial parking tax herein imposed shall be used strictly for  
24 transportation purposes in accordance with RCW 82.80.070; and

25 WHEREAS, the City passed Ordinance 122192 in 2006 imposing a commercial parking tax for  
26 the act or privilege of parking a motor vehicle in a facility operated by a commercial  
27 parking business; and

28 WHEREAS, the City passed Ordinance 116936 in 2010 increasing the commercial parking tax to  
12.5%; and

## Amendment 2 – EHT and CPT (CM Licata)

1 WHEREAS, the City of Seattle has that ability to implement an employee hours tax and raise the  
2 commercial parking tax, which will result in less impact on lower-income and fixed-  
income homeowners, and tenants; and

3 WHEREAS, the imposition of an employee hours tax will provide an equitable means of  
4 generating revenue to ensure that those who regularly utilize the City’s transportation  
system, including those who live outside the City, are supporting that system; and

5 WHEREAS, the proceeds of the employee hours tax and commercial parking tax herein imposed  
6 shall be used to make transportation investments that benefits the City of Seattle; NOW,  
7 THEREFORE,

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

9 Section 1. A new Chapter 5.38, “Employee Hours Tax,” is added to Title 5 of the Seattle  
10 Municipal Code as follows:

#### 11 **5.38.010 Administrative Provisions.**

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

#### 15 **5.38.020 Definitions.**

16 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully  
17 applicable to this chapter except as may be expressly stated to the contrary in this section. The  
18 following additional definitions shall apply throughout this Chapter 5.38:

19 A. “Business” means any person engaging in business as defined in SMC 5.30.030.

20 B. “Employee” means any person who performs work, labor, or services for a business  
21 and is on the business’ payroll, and who performs any part of their duties within the  
22 City of Seattle. For purposes of this chapter, the term “employee” also includes all  
23 full-time and part-time employees or workers on the business’ payroll. A business’  
24 payroll includes the payroll of any related company that acts as a paymaster for the  
25 related entities. A sole proprietor or partner shall not be considered to be an  
26 employee.

## Amendment 2 – EHT and CPT (CM Licata)

1 C. “Full-time employee” means an employee who works at least one thousand nine  
2 hundred and twenty (1,920) hours in a calendar year.

3 D. “Part-time employee” means an employee who works less than one thousand nine  
4 hundred and twenty (1,920) hours in a calendar year.

### 5 **5.38.030 Tax Imposed-Measure of the Tax.**

6 A. An employee hours tax is levied upon and shall be collected from every person for the  
7 act or privilege of engaging in business activities within the City. The tax shall be measured by  
8 the number of employee hours of work conducted with the City during the calendar year. The  
9 employee hours tax is imposed effective January 1, 2016.

10 B. The amount of the tax shall be equal to the employee hours worked within the City  
11 during the calendar year, multiplied by the rate of \$0.009375 per hour worked. The employee  
12 hours worked are the total hours compensated by the business, excluding vacation, sick leave and  
13 other paid leave hours. If an employee works within and outside the City, it will be the  
14 responsibility of the business to calculate and report the number of hours worked within the City.

15 C. Alternative Full Time Equivalent (FTE) Calculation Method. A business may choose  
16 to calculate its annual employee hours tax based on the number of its FTE employees as follows:

17 1. Calculation of FTEs. The number of FTE employees for the calendar year is  
18 (i) the number of a business’ full time employees for the calendar year, plus (ii) the sum of the  
19 hours worked by part-time employees in the calendar year divided by 1,920 hours.

20 2. Tax. Any fractional FTE remaining after the determination of FTE employees  
21 under SMC 5.38.030 C1 shall be rounded up to the nearest whole number. Once the number of  
22 FTE employees is thus determined, that number shall be multiplied by \$18 to determine the  
23 annual employee hours tax. Once the FTE alternative method is used, it must be used for all  
24 future reporting periods, unless a change is approved by the Director.

25 D. Businesses with more than one place of business must use the same method of  
26 calculation for all places of business.

## Amendment 2 – EHT and CPT (CM Licata)

1 E. The tax applies to employee hours worked or FTEs inside the City regardless of  
2 whether the place of business is located within or outside of the City.

3 F. Temporary employment agencies. The business entity that directly pays a person for  
4 temporary work is responsible for paying the employee tax, regardless of who is considered the  
5 person's employer for other purposes.

### 6 **5.38.040 Employee hours tax -When due.**

7 The employee hours tax shall be reported and paid on an annual calendar year basis, at  
8 the same time as the fourth quarter or annual tax return is due in accordance with SMC 5.55.040,  
9 and on forms as prescribed by the Director. Persons discontinuing their business activities in  
10 Seattle shall report and pay the tax at the same time as their final business tax return is due.

### 11 **5.38.050 Exemptions from the employee hours tax.**

12 A. The following are exempt from the employee hour tax:

- 13 1. Any business having annual worldwide gross income of \$100,000 or less.
- 14 2. Businesses that are preempted from taxation by cities pursuant to federal or state  
15 statutes or regulations, including, but not limited to, the following:
  - 16 (a) Insurance businesses and their agents as defined by RCW 48.01.050 and  
17 48.17.010, respectively, and whose total revenue is exempt from the business  
18 license tax per SMC 5.45.
  - 19 (b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as  
20 defined in RCW 82.36.010 and exempted under RCW 82.36.440.
  - 21 (c) Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and  
22 exempted in RCW 66.08.120.
  - 23 (d) Federal, state, local government agencies and subdivisions.
- 24 3. Domestic servants or gardeners, maintenance or repair persons employed in or  
25 around a private home.



## Amendment 2 – EHT and CPT (CM Licata)

1 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also  
2 apply to other chapters and sections of the Seattle Municipal Code in the manner and to the  
3 extent expressly indicated in each chapter or section. Words in the singular number shall include  
4 the plural and the plural shall include the singular. Words in one gender shall include both  
5 genders.

6  
7 Section 3. Section 5.55.010 of the Seattle Municipal Code, which was last amended by  
8 Ordinance 123063, is amended as follows:

9 **5.55.010 Application of chapter stated.**

10 Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall  
11 apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32  
12 (Amusement Devices), 5.35 (Commercial Parking Taxes), ~~5.37~~ 5.38 (Employee Hours Taxes),  
13 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Business Tax), 5.48  
14 (Utility Tax), and 5.52 (Gambling Tax) and under other titles, chapters and sections in such  
15 manner and to such extent as indicated in each such title, chapter or section.

16  
17 Section 4. Subsection 5.55.040 A of the Seattle Municipal Code, which section was last  
18 amended by Ordinance 123063, is amended as follows:

19 A. Other than any annual license fee or registration fee assessed under this chapter, the  
20 tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax),  
21 5.38 (Employee Hour Taxes), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square  
22 Footage Business Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in  
23 quarterly installments. The Director may use his or her discretion to assign businesses to a  
24 monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes  
25 imposed by SMC Section 5.52.030 A2 and B2 for punchboards and pulltabs shall be due and  
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## Amendment 2 – EHT and CPT (CM Licata)

1 payable in monthly installments. Tax returns and payments are due on or before the last day of  
2 the next month following the end of the assigned reporting period covered by the return.

3  
4 Section 5. Subsection 5.55.060 A of the Seattle Municipal Code, which section was last  
5 amended by Ordinance 123361, is amended as follows:

6 A. Every person liable for any fee or tax imposed by this chapter, Chapters 5.32, 5.35,  
7 5.38, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five years after  
8 filing a tax return, such records as may be necessary to determine the amount of any fee or tax  
9 for which the person may be liable; which records shall include copies of all federal income tax  
10 and state tax returns and reports made by the person. All books, records, papers, invoices, ticket  
11 stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise,  
12 and other data, including federal income tax and state tax returns, and reports needed to  
13 determine the accuracy of any taxes due, shall be open for inspection or examination at any time  
14 by the Director or a duly authorized agent. Every person's business premises shall be open for  
15 inspection or examination by the Director or a duly authorized agent.

16  
17 Section 6. Subsection 5.55.150 E of the Seattle Municipal Code, which section was last  
18 amended by Ordinance 123899, is amended as follows:

19 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest or  
20 penalty due either by affirming, reversing or modifying an action of the Director. Reversal or  
21 modification is proper if the Director's assessment or refund denial violates the terms of this  
22 Chapter 5.55, or Chapters 5.30, 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.

23  
24 Section 7. Section 5.55.165 of the Seattle Municipal Code, which was last amended by  
25 Ordinance 123361, is amended as follows:

26 **5.55.165 Director of Finance and Administrative Services to make rules.**

## Amendment 2 – EHT and CPT (CM Licata)

1           The Director of Finance and Administrative Services shall have the power and it shall be  
2 his or her duty, from time to time, to adopt, publish and enforce rules and regulations not  
3 inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.52  
4 or with law for the purpose of carrying out the provisions of such chapters, and it shall be  
5 unlawful to violate or fail to comply with, any such rule or regulation.

6  
7           Section 8. Subsections 5.55.220 A and B of the Seattle Municipal Code, which section  
8 was last amended by Ordinance 122764, are amended as follows:

9           A. It shall be unlawful for any person subject to the provisions of this chapter, or SMC  
10 Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.46, 5.45, 5.48 and 5.52:

- 11           1. To violate or fail to comply with any of the provisions of this chapter, SMC  
12           Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52, or any lawful rule  
13           or regulation adopted by the Director;
- 14           2. To make or manufacture any license required by this chapter except upon  
15           authority of the Director;
- 16           3. To make any false statement on any license, application or tax return;
- 17           4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
- 18           5. To refuse admission to the Director to inspect the premises and/or records as  
19           required by this chapter, or to otherwise interfere with the Director in the  
20           performance of duties imposed by SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40,  
21           5.45, 5.46, 5.48 and 5.52;
- 22           6. To fail to appear or testify in response to a subpoena issued pursuant to SMC  
23           Section 3.02.120 in any proceeding to determine compliance with this chapter and  
24           SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52;
- 25           7. To testify falsely in any investigation, audit or proceeding conducted pursuant to  
26           this chapter;



## Amendment 2 – EHT and CPT (CM Licata)

1           8. To continue to engage in any business activity, profession, trade or occupation  
2           after the revocation of or during a period of suspension of a business license  
3           issued under SMC Section 5.55.030; or

4           9. In any manner, to hinder or delay the City or any of its officers in carrying out the  
5           provisions of this chapter or SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46,  
6           5.48 and 5.52.

7           B. Each violation of or failure to comply with the provisions of this chapter, or SMC  
8 Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 or 5.52 shall constitute a separate offense.  
9 Except as provided in subsection C, any person who commits an act defined in subsection A of  
10 this section is guilty of a gross misdemeanor, punishable in accordance with SMC Section  
11 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code apply  
12 to the offenses defined in subsection A of this section, except that liability is absolute and none  
13 of the mental states described in SMC Section 12A.04.030 need be proved.

14  
15           Section 9. Subsection 5.55.230 A of the Seattle Municipal Code, which section was last  
16 amended by Ordinance 123899, is amended as follows:

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

- 24           1. The license was procured by fraud or false representation of fact.
- 25           2. The licensee has failed to comply with any provisions of this chapter.

## Amendment 2 – EHT and CPT (CM Licata)

- 1           3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, ~~5.37~~  
2                 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.
- 3           4. The licensee is in default in any payment of any license fee or tax under Title 5 or  
4                 Title 6.
- 5           5. The property at which the business is located has been determined by a court to be  
6                 a chronic nuisance property as provided in Chapter 10.09.
- 7           6. The applicant or licensee has been convicted of theft under Section  
8                 12A.08.060.A.4 within the last ten years.
- 9           7. The applicant or licensee is a person subject within the last ten years to a court  
10                order entering final judgment for violations of RCW 49.46, 49.48, or 49.52, and  
11                the judgment was not satisfied within 30 days of the later of either:  
12                a. the expiration of the time for filing an appeal from the final judgment order  
13                under the court rules in effect at the time of the final judgment order; or  
14                b. if a timely appeal is made, the date of the final resolution of that appeal and  
15                any subsequent appeals resulting in final judicial affirmation of the findings of  
16                violations of RCW 49.46, 49.48, or 49.52.
- 17           8. The applicant or licensee is a person subject within the last ten years to a final and  
18                binding citation and notice of assessment from the Washington State Department  
19                of Labor and Industries for violations of RCW 49.46, 49.48 or 49.52, and the  
20                citation amount and penalties assessed therewith were not satisfied within 30 days  
21                of the date the citation became final and binding.

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

Amendment 2 – EHT and CPT (CM Licata)

1 Section 10. Subsection 5.35.030 B of the Seattle Municipal Code, which section was last  
2 amended by Ordinance 123396, is amended as follows:

3 B. The amount of the parking tax shall be equal to the parking fee multiplied by the  
4 parking tax rate. Effective July 1, 2009, the parking tax rate is imposed at ten percent (0.10).  
5 Effective January 1, 2011, the parking tax rate is imposed at 12.5 percent. Effective January 1,  
6 2016, the parking tax rate is imposed at 17.5 percent.

7  
8 Section 11. Severability. If any part, provision or section of this ordinance is held to be  
9 void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly  
10 so held to be void or unconstitutional shall continue in full force and effect.

11  
12 Section 12. This ordinance shall take effect and be in force 30 days after its approval by  
13 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
14 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

15  
16 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2015, and  
17 signed by me in open session in authentication of its passage this  
18 \_\_\_\_ day of \_\_\_\_\_, 2015.

19  
20 \_\_\_\_\_  
21 President \_\_\_\_\_ of the City Council

22  
23 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2015.

24  
25 \_\_\_\_\_  
26 Edward B. Murray, Mayor

Dan Eder  
Transportation Funding Ordinance  
June 5, 2015

## Amendment 2 – EHT and CPT (CM Licata)

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Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)